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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 March 1999, at 10.30 a.m.

Temporary Chairman: Mr. SELEBI (South Africa)

Chairman: Mrs. ANDERSON (Ireland)

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GE.99-11633 (E)

The meeting was called to order at 10.35 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN declared open the fifty-fifth session of the Commission on Human Rights.

2. He noted that the preceding session had taken place at a unique moment in the history of human rights, coinciding with the fiftieth anniversary of the Universal Declaration of Human Rights. The Commission had made considerable progress in the following areas at that session: restructuring of its agenda, in order to give absolute priority to the human rights of women and children; interactive dialogue on a particular theme (the focus in 1998 had been women's rights; in 1999 it would be the rights of the child); and the role played by the Bureau of the Commission on Human Rights during the inter-sessional period. The Bureau had appointed independent experts on the right to development, the right to education and extreme poverty. It had also appointed a new independent expert on structural adjustment policies and a special rapporteur on Afghanistan.

3. The United Nations Human Rights Award, commending people who distinguished themselves through their achievements in human rights, was of particular significance when presented to human rights defenders who had sacrificed their lives in the struggle for the common good of humanity. In 1998, a memorial plaque had been unveiled at United Nations Headquarters in New York in honour of those heroes and heroines.

4. Another positive development had been the recent decision by the Secretary-General to allocate additional resources to the Office of the High Commissioner for Human Rights. However, voluntary contributions to important funds such as those to combat racism and torture still needed to be increased.

5. The Bureau had discharged its mandate to make recommendations concerning ways of increasing the effectiveness of the Commission's mechanisms. Those recommendations, as contained in document E/CN.4/1999/104, were being submitted to the fifty-fifth session for consideration. It was important to reach agreement on that issue.

6. The Commission should not lose sight of all the other important issues before it, for example the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the commemoration of important anniversaries such as that of the Convention on the Rights of the Child, the Geneva Conventions and the Hague Convention. It would also have to consider how to implement the Declaration on Human Rights Defenders adopted by the General Assembly in December 1998.

7. Most of all, he urged the Commission to give some thought to the role it could play in preventing armed conflicts, which led to large-scale violations of the rights of civilians. Fact-finding and monitoring, which made it possible to gather facts in an impartial and objective manner and could often dispel propaganda for hatred, remained critical components of the Commission's work.

8. In conclusion, he said that his chairmanship of the Commission had reinforced his view that "people mattered". Their rights should not be violated and their sacred trust should not be betrayed.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

9. Mrs. ROBINSON (United Nations High Commissioner for Human Rights) emphasized the Temporary Chairman's remark that the greatest threat to human rights was war. Modern armed conflicts had become so grave in their effects that they created a sense of powerlessness. Ninety per cent of victims were unarmed civilians, and the battlefield had come to encompass all of society. War destroyed the basic infrastructure which provided access to fundamental social and economic rights.

10. Courage was needed to face the greatest challenge, that of preventing the tragic violations committed in the course of such conflicts. There was no doubt that barbarous acts such as those reported from Sierra Leone were crimes under international law. That must not be forgotten, especially in 1999, as the international community was preparing to commemorate the adoption 100 years earlier of the Hague Convention, which had codified the laws of war, and of the Geneva Conventions guaranteeing protection to civilians in time of war 50 years earlier. The primary need was not to write new laws but to implement what was already on the ground. The 1998 decision to create an international criminal court represented a major breakthrough, indicating Governments' determination to end past cycles of impunity and to establish individual criminal responsibility.

11. The Commission's task was to see how its own mechanisms could best fulfil their mission in the areas of prevention, protection and reconstruction.

12. One of the first prevention initiatives was the monitoring of human rights violations in a given region. Abuses against the inhabitants of Kosovo, for example, had been monitored with precision by the Special Rapporteur of the Commission and then by the High Commissioner's first field offices. Second, objective investigations into the situation in a region could dispel the propaganda and rumours which fanned the flames of conflict. Third, human rights reports helped to identify the underlying causes of conflicts. Fourth, deploying human rights monitors could prevent violations from continuing. Fifth, the setting-up of national institutions to protect and strengthen human rights helped to break the cycle of violations.

13. The reports of the Special Rapporteurs played a crucial role as potential indicators of instability and future conflict, which made it possible to give early warning to the Executive Committees of the United Nations bodies. As the primary body dealing with human rights within the United Nations system, the Commission should have the capacity to respond effectively, without delay, to seek implementation of the Rapporteurs' recommendations. In that connection she was convinced of the need to strengthen the special procedures. Her Office had initiated a review which would be completed shortly. However, the greatest obstacles in the path of the Special Rapporteurs were the failures, and in some case, refusals, of

Governments to invite their visits, and secondly to act on their recommendations. The Commission must address those issues as a matter of urgency.

14. Noting that the year 1999 would mark the tenth anniversary of the adoption of the Convention on the Rights of the Child, she stressed the need for the draft optional protocol on child soldiers to be adopted without delay. The involvement of children in armed conflicts was not simply a violation of a child's rights, but affected the likelihood of a successful transition to peace. It was no coincidence that States in which children had become combatants were among the States where it was the most difficult to create an enduring peace.

15. She was convinced that international cooperation could help bring an end to gross and flagrant violations of human rights. The constructive regional cooperation taking place around the globe was encouraging. The Asia-Pacific Regional Workshop had demonstrated its worth as an annual forum for the exchange of information and experience in the area of human rights. Similarly, the forthcoming Ministerial Meeting of the Organization of African Unity devoted to human rights would be an important occasion for the advancement of human rights within that continent. The Commission was cooperating closely with the OAU in preparing that meeting. It had also established cooperation with the Organization for Security and Cooperation in Europe, the Organization of American States and other subregional institutions. She attached a great deal of importance to those regional activities, which provided opportunities to approach human rights issues in practical and constructive ways, on the basis of countries' daily experience. In addition, recognizing the importance of securing ratification of international human rights instruments, the Office had deepened its links with the Inter-Parliamentary Union.

16. One of the tasks before the Commission in 1999 was to consider ways to monitor violations of the Declaration on Human Rights Defenders, which the General Assembly had adopted at its latest session. Human rights defenders, who were civil society's delegates, lived a life of terrible fear. That had been brought home to her in a personal way at the Commission's preceding session, when representatives of small NGOs had pleaded with her to ensure their protection when they returned to their home countries. The freedom accorded to human rights defenders was an acid test of a society's practical commitment to human rights.

17. As the twentieth century was drawing to an end, it was important to recall the schism that had long existed between civil and political rights, on the one hand, and economic, social and cultural rights on the other. Happily, that legacy of the cold war had been overcome, and the Commission had established new thematic mandates focusing on issues regarded as crucial, such as extreme poverty and education. The Committee on Economic, Social and Cultural Rights, for its part, had stated that core rights could not be disregarded even when sanctions were imposed under Chapter VII of the Charter of the United Nations.

18. As the world approached the new century, it did so with the knowledge that enjoyment of all human rights, including the right to development, was the cornerstone of peace and security and the key to preventing future conflict and building a common future.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

19. The TEMPORARY CHAIRMAN invited the Commission to turn to item 1 of its provisional agenda (Election of officers).

20. Mr. SKOGMO (Norway), speaking on behalf of the Western European and Others Group, nominated Mrs. Anderson (Ireland) for the office of Chairman.

21. Mr. JAKUBOWSKI (Poland), speaking on behalf of the Eastern European Group, Mr. PALIHAKKARA (Sri Lanka), speaking on behalf of the Asian Group, Mr. GALLEGOS CHIRIBOGA (Ecuador), speaking on behalf of the Latin American and Caribbean Group, and Mrs. DIALLO (Senegal), speaking on behalf of the African Group, supported the nomination.

22. Mrs. Anderson (Ireland) was elected Chairman by acclamation.

23. Mrs. Anderson (Ireland) took the Chair.

24. The CHAIRMAN invited nominations for the three offices of Vice-Chairman and for the office of Rapporteur.

25. Mr. PALIHAKKARA (Sri Lanka), speaking on behalf of all the regional groups, nominated Mr. Simkhada (Nepal), Mr. Baumanis (Latvia) and Mr. Padilla Menendez (Guatemala) for the offices of Vice-Chairman and Mr. Chatty (Tunisia) for the office of Rapporteur.

26. Mr. Simkhada (Nepal), Mr. Baumanis (Latvia) and Mr. Padilla Menendez (Guatemala) were elected Vice-Chairmen by acclamation and Mr. Chatty was elected Rapporteur by acclamation.

STATEMENT BY THE CHAIRMAN

27. The CHAIRMAN, after paying tribute to the outgoing Chairman on behalf of the community of human rights defenders, said that her election to chair the Commission was an honour to a country such as Ireland, which had not yet healed the scars of history and which had learned the long and hard way how much human rights mattered. She was also conscious that less than a handful of women had chaired the Commission in over 50 years of its history; it was time for that situation to change. She was especially proud to chair the Commission at a time when Mary Robinson, the most distinguished Irishwoman of her generation, held the post of High Commissioner for Human Rights.

28. The challenge facing the fifty-fifth session was to follow through with the commitments made at the preceding session, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights. Despite the media reports, which focused almost exclusively on difficult discussions of country situations, the Commission pursued quiet, incremental work which would eventually help change people's lives. The Commission's agenda was a

comprehensive one, embracing many of the fundamental issues confronting societies at the close of the twentieth century: development, racism, extreme poverty and the rights of women, children and indigenous people, which must be approached from the perspective of strengthening the protection and promotion of the full range of rights.

29. Concerning the conduct of the session, she said that, firstly, she would work for an orderly session like that of the previous year; abiding by time limits, maintaining quiet so that speakers could be heard and avoiding polemic were all essential to serious discussion. She would do everything in her power to help delegations reach agreed outcomes in sensitive areas. Finally, she hoped that, as they went about the business of the session, participants would be aware that the privilege of attending carried a heavy responsibility. Responsibility was the starting point; how it was exercised was the true test of participants' integrity and wisdom. Not to avoid the truth, even when it was uncomfortable, but not to employ it selectively; to be ready to state differences publicly, but not to underestimate the value of consensus; to listen to all viewpoints but to act in the way most likely to help those who needed it, should be the guidelines for the session. The sense of responsibility was also reflected in the language used: the language of genuine concern was not the language of insult. All societies were flawed and none had a basis either for complacency or a sense of moral superiority. Finally, responsibility should also lead to the improvement of the Commission's mechanisms. The issues were important enough to warrant serious reflection, but the need for reflection must not become a rationale for the indefinite postponement of action. The United Nations and the Commission on Human Rights were in the midst of testing times. She believed that every delegation at the session was sincerely concerned about human rights. Translating that concern into meaningful action across all agenda items would require openness, realism and courage. Because the outcome was so important, participants must demand those qualities of themselves.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/1999/1, E/CN.4/1999/1/Add.1 and Corr.1)

30. The CHAIRMAN drew attention to the provisional agenda (E/CN.4/1999/1) prepared by the Secretary-General pursuant to rule 5 of the rules of procedure.

31. The agenda was adopted.

The meeting rose at 11.45 a.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 March 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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ORGANIZATION OF THE WORK OF THE SESSION

The meeting was called to order at 10 a.m.

STATEMENT BY MR. URAL LATYPOV, MINISTER FOR FOREIGN AFFAIRS AND DEPUTY PRIME MINISTER OF THE REPUBLIC OF BELARUS

1. Mr. LATYPOV (Belarus) affirmed the commitment of the Republic of Belarus to the values of human rights, but stressed that the pace at which those rights were realized inevitably depended on the attitudes, traditions and political and economic circumstances of individual countries. Belarus was moving gradually towards a market economy and a multi-party political system, not without difficulty, but with the support of the population. It was one of the few countries of the former Soviet sphere in which civil peace had been preserved. It was thus regrettable that, with scant regard for objectivity, some States placed Belarus on the blacklist of countries that violated human rights, whereas it was in fact a multinational State in which all citizens enjoyed equal rights, a State of many religious faiths in which freedom of worship was guaranteed, a State that was experiencing neither internal conflict nor war on its frontiers, and one with a low crime rate. Furthermore, it was attracting more and more refugees from other countries and illegal immigration was becoming a real problem.

2. The Government of Belarus aspired to maintain objective, honest and just relations with the international community. In 1997 it had been visited, at its own request, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and it was intending to invite the Special Rapporteur on religious intolerance to visit the country in 1999. A group of observers from the Organization for Security and Cooperation in Europe (OSCE) had been in Minsk since February 1998. The work done with that group in the legislative sphere had been satisfactory and rewarding, although Parliament had not adopted all its proposals.

3. Historically and geographically, Belarus was part of Europe, and it could not conceive of itself other than as belonging to the European home and endorsing its values. It was a party to the principal international human rights instruments. That being said, the Belarusian authorities did not subscribe to the commonly held view that the process of codification of international human rights law must now be regarded as completed. It was clear that universal ratification of basic international human rights instruments was not enough to guarantee such fundamental rights as the right to a healthy environment and the right to sustainable development, or the elimination of poverty.

4. Environmental questions were not purely theoretical in Belarus, as hundreds of thousands of people were still suffering from the effects of the Chernobyl disaster. When, in the name of human rights, citizens of countries such as Germany and Belgium were assisting the victims of Chernobyl in Belarus, it was hard to understand how others could invoke those same rights as justification for reducing their political and economic cooperation with Belarus. The Belarusian Government was convinced that only a constructive and balanced approach to protection of human rights could be fruitful. It supported the Declaration on Human Rights Defenders and the Declaration on the Right to Development; it had responded with interest to the joint initiative

by the United Nations High Commissioner for Human Rights and the Director-General of UNESCO aimed at strengthening training in human rights; and had just drawn up a five-year plan on human rights education.

5. The municipal elections to be held on 4 April 1999 would mark an important stage in the democratization of the country and the beginning of a three-year period of elections, with elections to the legislature to be held in 2000, followed by presidential elections in 2001. International observers had been invited to participate in the process. The new law on municipal elections would serve as a model for the future electoral code. The elections to the municipal councils were generating considerable interest, as witnessed by the fact that more than 27,000 candidates were standing for election.

6. In conclusion, he said that the Republic of Belarus was aware that much remained to be done in the area of human rights, but that his country remained receptive to constructive cooperation.

STATEMENT BY MR. JOSCHKA FISCHER, MINISTER FOR FOREIGN AFFAIRS OF THE FEDERAL REPUBLIC OF GERMANY

7. Mr. FISCHER (Germany), speaking on behalf of the States members of the European Union, of the countries of central and eastern Europe having associate status with the European Union, and of Cyprus, said that although more people than ever before lived in democratic systems and general awareness of the importance of human rights had grown, violations of those rights continued in many countries. According to Amnesty International, there were still government-ordered murders in 55 countries, and political prisoners in 87 countries. Women, children, old people and refugees were the first victims of wars and conflicts. The civilian population was the target of unbridled violence, not only in many parts of central Africa and Asia, but also in Europe. The massacre at Racak in Kosovo had rightly been classified as a crime against humanity. The situation in that region was explosive, and he appealed to the Yugoslav Government to sign the peace plan drawn up by the Contact Group, as the Kosovo Albanians had done, before it was too late.

8. In recent years human rights had become much more important in foreign policy. There were two reasons for that: first, present-day wars and conflicts came about more because of internal tensions than because of international tensions. It followed that the rights of individuals would occupy an increasingly central place in the international community's definition of security, whereas formerly it had concerned itself more with national interests. Given that democracies with well-developed civil societies rarely waged war against one another, the promotion of democracy and human rights was the best means of safeguarding peace. Secondly, economic success would not be lasting unless human rights were observed and the rule of law guaranteed constitutionally. That was the lesson to be learned from the Asian crisis. The efforts made by poor countries to stimulate their economic development were bound to be unsuccessful if democracy and human rights were suppressed. As Professor Amartya Sen, recipient of the Nobel Prize for Economics, had shown, famines occurred much less frequently in democracies than in dictatorships. Good governance based on respect for human rights,

on the separation of powers and on functioning democratic, legal and constitutional structures was of central importance for economic development. All those elements would no doubt fuel the debate on the right to development.

9. In an increasingly interdependent world, human rights were no longer a purely internal matter or one determined by local culture. Today, the main concern was to strengthen the universality of human rights. The adoption of the Statute of the International Criminal Court had been a major step forward and all States should sign and ratify the Statute quickly so as to enable the Court to commence its work and allow the victims of violations to obtain reparation. In that connection the States members of the European Union believed that the death penalty could not be justified either ethically or legally, and that it had not proved to be an effective means of combating crime. It would therefore be submitting its first joint resolution on the death penalty, whose minimum aims were to prevent the execution of minors and the mentally ill, enforcement of the death penalty before completion of ongoing procedures and extradition to countries where the death penalty was in force.

10. In future special priority must be given to women's rights. Equality between the sexes remained a Utopian ideal in many countries where women were victims of discrimination and violence or of deplorable practices such as genital mutilation, which must be prohibited by law in all societies; for nothing - not even a cultural tradition - must be allowed to impair the right to physical integrity. The recent adoption by the Commission on the Status of Women of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which would enable women to lodge individual complaints with an international body, was therefore to be welcomed; and it was to be hoped that the protocol would quickly enter into force. It was also high time that work on the drafting of the optional protocols on the involvement of children in armed conflicts, the sale of children and child prostitution was brought to a successful conclusion.

11. The European Union was intending to draw up its first human rights report before the end of 1999, with a view to increasing the transparency of its human rights policy and to dealing with specific issues or countries. Internally, it would lend more support to the cause of human rights. Thus, pursuant to the Amsterdam Treaty, respect for human rights, democracy and the rule of law would be prerequisites for membership of the European Union, and limitations might be imposed on member States' rights if those criteria were not observed. The European Union had established a European Monitoring Centre for Racism and Xenophobia in Vienna and was examining the possibility of drawing up a European charter of fundamental rights. Having seen for itself the value of action by human rights defence groups in various countries, it would continue tirelessly to support democrats and human rights activists wherever they were oppressed.

12. Thus, it regarded as unacceptable the very severe prison sentences imposed in China upon civil rights activists who had merely exercised the rights guaranteed by the Universal Declaration of Human Rights, and by the International Covenant on Civil and Political Rights, which China had signed in 1998. The general human rights situation in China, where the death penalty was imposed with undue frequency and administrative detention was common

practice, did not comply with established international standards. Although China had already made some progress towards modernization, the European Union remained convinced that granting democratic rights, not suppressing them, was the only viable basis for sustainable development. It was also concerned about the situation of minorities, particularly in Tibet. It therefore urged the Chinese Government to ensure that progress in the international sphere was followed by concrete improvements in respect for human rights, democracy and the rule of law. The European Union was ready, for its part, to engage in a more focused dialogue on human rights and to continue its cooperation programme in support of that process.

13. Implementation of a preventive human rights policy was an essential task which the Office of the High Commissioner for Human Rights had successfully taken up, particularly in the context of the programme of advisory services and technical cooperation. The European Union therefore strongly supported those activities, both materially and at other levels. Furthermore, conscious of the often positive effect of the work of many non-governmental organizations active in the defence of human rights, it was prepared further to intensify its dialogue with those organizations. However, for the future it would be important for other players in civil society, particularly economic enterprises, to give fuller recognition to the link between human rights and sustainable development, and to make their own contribution to the protection of human rights. The process already under way must be continued and intensified.

14. In conclusion, he stressed that while Europeans repeatedly pointed out that the suppression of human rights was unacceptable and that they would strive to promote the development of peace and democracy throughout the world, they did not do so in a spirit of arrogance or in order to impose their own values on other countries. Their aim was to improve the implementation of internationally recognized human rights standards throughout the world, and all participants in the session of the Commission would have to concentrate their efforts on means of securing that common objective.

STATEMENT BY MR. MATÉ GRANIĆ, DEPUTY PRIME MINISTER AND MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF CROATIA

15. Mr. GRANIĆ (Croatia) said that the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights and the five-year review of the implementation of the Vienna Declaration and Programme of Action had provided an opportunity to assess the human rights situation throughout the world. It was the common view that, while a lot had already been achieved, much remained to be done in that sphere. It must be hoped that everyone would try to ensure that the twenty-first century would truly be the "century of human rights". The Commission could play a crucial role in that regard in view of the importance of its work in protecting and promoting human rights.

16. He then drew attention to the progress made in the sphere of human rights and in other related spheres in Croatia. Apart from a few isolated incidents, the security situation was improving, especially in the Croatian Danube region and in other formerly occupied areas. The National Confidence-Building Committee, the only such body in the territory of the

former Yugoslavia, was dealing successfully with the problems, particularly at the local level. The Croatian Government was also doing its utmost to speed up the return of all the refugees and displaced persons to their homes. A total of 56,000 persons had so far returned from the Federal Republic of Yugoslavia, Bosnia and Herzegovina, and the Croatian Danube region. However, Croatia needed international aid to facilitate the return process and to reconstruct the country and revitalize its economy.

17. Croatia had always maintained good relations with the succession of special rapporteurs on the human rights situation in the territory of the former Yugoslavia, including the latest, Mr. Jiri Dienstbier, who had already paid two visits to Croatia. However, the Croatian Government noted with regret that no mention had ever been made of Croatia's efforts to comply with the Special Rapporteur's recommendations. His mandate was automatically extended without any comprehensive review of the human rights situation in each of the three countries in question. Croatia was the only one of those countries which was a member of the Council of Europe and therefore subject to a powerful human rights protection mechanism in the shape of the European Court of Human Rights. The Government regretted that the international community took hardly any notice of that fact and that, in particular, in spite of their many differences in terms of respect for democracy and human rights, those three countries were still lumped together by the Special Rapporteur. It was to be hoped that separate approaches would be taken following the establishment in Croatia in the near future of a technical assistance and cooperation project of the Office of the United Nations High Commissioner for Human Rights, which would mark the beginning of a gradual transition from monitoring to active engagement of the Office in the promotion and protection of human rights in Croatia. The talks which had already begun on defining the legal status of the regional office in Zagreb should result in the conclusion of an agreement between Croatia and the High Commissioner during her visit to Croatia in May.

18. Croatia had always been open to all forms of cooperation, not only with the United Nations but also with other regional organizations, including the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, as well as with NGOs. In that connection it emphasized the need to improve the coordination among those various organizations in order to avoid duplication of work. Croatia had also signed and ratified all the relevant human rights instruments, both international and regional. At the domestic level, a Constitutional Court had been established under the Croatian Constitution to deal with complaints of violation of the Constitution lodged by individuals and groups who believed that their human rights had been violated by decisions of administrative bodies. In addition, in 1996 the Government had set up a working group to review the compatibility of domestic legislation with the provisions of the European Convention on Human Rights and its protocols, in order to bring such legislation more into line with the established European standards. On the working group's recommendation, the Government had requested the Council of Europe to provide it with the assistance of experts for drafting legislation. Various other bodies had been created to protect human rights, including the National Committee for Human Rights Education, which had prepared a programme of human rights education, to be introduced shortly in all educational establishments; the programme had been declared a model of its kind by the Council of Europe experts.

19. Like all other Member States, Croatia had commemorated the fiftieth anniversary of the Universal Declaration of Human Rights, holding a number of events in which many individuals, national human rights institutions, prominent academics, national minorities and NGOs had taken part. It should be stressed in that connection that Croatia currently had 1,305 national, 48 international and 14,000 local NGOs. The Government had established an NGO cooperation office and had organized several events at which NGOs had been able to present their programmes of work in various fields (social welfare, humanitarian assistance, promotion of human rights).

20. Croatia had also been cooperating with the International Criminal Tribunal for the Former Yugoslavia and its Zagreb office from the outset, but in particular since the promulgation in 1996 of the Constitutional Act on cooperation with the Tribunal. It had extradited all the persons suspected of war crimes present in its territory and had negotiated the handover of 10 Bosnian Croats to the Tribunal.

21. He wished to re-emphasize in conclusion the importance of the role of the Commission on Human Rights in the establishment, protection and promotion of human rights, as well as the great responsibility shared by all to do everything possible to ensure that, on the threshold of the new millennium, all the world's citizens could freely exercise their rights.

STATEMENT OF MR. BRONISLAW GEREMEK, MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF POLAND

22. Mr. GEREMEK (Poland) commented that everything had already been said about human rights and that it was hard to have a serious debate on the subject. The regimes responsible for daily violations of human rights hypocritically asserted that their policies were designed to ensure respect for such rights, and the opinion was even voiced that human rights were merely a European invention and that any attempt to impose them in other parts of the world was an act of cultural imperialism. Yet no human culture worthy of the name would deny the fact that all human beings were born free and equal in dignity and rights. It was indeed pointless to debate the legitimacy of human rights, for history showed clearly that they were increasingly respected in an increasing number of countries. It was important in that connection to welcome the return of Nigeria to the family of democratic States, for democracy invariably sustained respect for human rights even if it did not itself guarantee them. That example also demonstrated the importance of international solidarity, because without the heroic struggle of the Nigerian defenders of human rights and without the international support which they had received, in particular from the United Nations, Nigeria would still be subject to a military dictatorship.

23. It was important to stress that the violation of human rights was not an internal affair of any State: it was an internal affair of all mankind, and mankind had the right to intervene in its own internal affairs. In fact, States in which human rights were respected did not go to war, did not experience starvation, and did what they could to help others. It was thus in the interest of any country to have such States for neighbours. Sixty years after the war unleashed by a totalitarian regime and 10 years after the defeat

of another totalitarian regime it had become clear that anyone who encroached upon the human rights of any individual impaired the security of all people. That was why civil and political rights had made so much progress in recent decades. However, although respect for political rights was a necessary condition, it was not in itself sufficient for ensuring economic and social progress. Hence the imperative need for international solidarity in promoting economic and social rights. Without such solidarity the voices of the weakest would be increasingly less audible, and the enclaves of poverty or slavery would not disappear. The surviving dictatorships must be reminded that accommodation was the only means by which the vanquished could win a victory. However, it must not be thought that the defence of human rights ended with the arrival of democracy, for violations of human rights were also committed in democratic States. It was sufficient to recall the problems experienced by some national, religious, ethnic and sexual minorities in certain countries of Western Europe and North America and the intolerance experienced by the Roma and Sinti peoples in Central and Eastern Europe, including Poland. The struggle for human rights was a struggle without end.

24. Human rights were currently being threatened by globalization, which was giving rise in some countries to marginalization, poverty and perpetual underdevelopment. The United Nations must take preventive action in that area. It must create rules to minimize the negative side-effects of globalization and maximize the positive effects, in order to satisfy everybody's needs and improve the human rights situation throughout the world. The promotion of a permanent international dialogue on the protection of human rights, the establishment of mechanisms to oversee compliance with international commitments, and the provision of increased technical assistance by the more technologically advanced countries to the countries which lacked the necessary resources - those should be the basic human rights objectives of the United Nations. The Commission must play a leading role in the realization of human rights. It must therefore constantly adapt its procedures to the evolving situation and change its methods of work, in order to ensure that a State suspected by the international community of violating human rights could never prevent the Commission from taking up the issue. In the reform of the United Nations proposed by the Secretary-General, attention must be focused on strengthening the Commission's preventive capacity, and the High Commissioner for Human Rights must have all the financial and human resources needed for that purpose.

25. When taking over the presidency of OSCE in 1998, Poland had been determined to ensure the observance of human rights in the continent of Europe, because it had been convinced that only a Europe which respected human rights could be a secure Europe. Sadly, today Europe was not a secure place, and a new war might break out as a result of the Kosovo conflict. Poland therefore wished to remind the Yugoslav leaders that only a political dialogue could bring a just solution to the conflict and that they bore an enormous responsibility in that regard. The international community, for its part, must not only state the fundamental values but also show that it was capable of defending them, in Kosovo and anywhere else.

STATEMENT BY MR. MARTIN PALOUS, DEPUTY MINISTER FOR FOREIGN AFFAIRS OF THE CZECH REPUBLIC

26. Mr. PALOUS (Czech Republic) said that the Commission's agenda was very ambitious in its scope and complexity, demonstrating the central importance of the question of human rights for the whole United Nations system and indicating the responsibilities of all the members of the Commission. At the preceding session the President of the Czech Republic, Mr. Vaclav Havel, had made a statement in the Commission on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, in which he had stressed that the incorporation of human rights principles in political relations had helped to put an end to the bipolar division of the world. He had also noted that globalization demanded a consistent and active human rights policy based on the principle of their indivisibility and universality. Having raised the question of the real content of the concept of human rights, Mr. Havel had stated his conclusion that it was something in which all could share and which constituted the basis of human dignity. Those simple ideas, which had brought Charter 77 into existence during the darkest years of the totalitarian regime in Czechoslovakia, illustrated the position which the Czech delegation would be taking throughout the session, a position based on the main international human rights instruments regulating the relations between the individual and the State.

27. In any event, whatever the outcome of the ongoing dialogue on the content of the concept of human rights in the twenty-first century, those who wanted to be regarded as serious and reliable participants in the international endeavour to promote the cause of human rights in the world had not only to make an active effort to ensure respect for such rights in their countries but also to accept the scrutiny of international bodies and possible criticism. The Czech Government was aware that the human rights situation in the Czech Republic was not perfect, owing partly to the difficult legacy of its past and to problems of the transition process. However, those shortcomings, which related mainly to the protection of the rights of ethnic minorities and of the Roma population in particular, could paradoxically prove to be a powerful springboard for the launching of an active and broad-minded human rights policy. The Government knew how difficult it was to bring about changes in legal systems and in people's attitudes in that sphere and sincerely appreciated any form of international cooperation in such matters.

28. The internationalization of human rights, which was the main achievement of the process initiated with the emergence of the United Nations system, had been accompanied by new channels of communication between the representatives of the Governments of Member States and those persons who had decided to contribute to the human rights debate as pioneers and champions of international action from below. Long years of oppression and lack of freedom had taught such Czechs to have a high regard for any criticism from the international community and had prompted them to rise without hesitation to defend all persons finding themselves in the same situation, without setting themselves up as judge or arbiter. It was out of respect for those principles of strengthening and promoting an open and frank international dialogue, and not out of any spirit of confrontation, that the Czech delegation had decided, after thorough scrutiny of the arguments, to submit a draft resolution on the

human rights situation in a certain country. It was convinced that the search for common values was the only approach capable of securing global peace in the twenty-first century.

STATEMENT BY MR. JOSE AYALA LASSO, MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF ECUADOR

29. Mr. AYALA LASSO (Ecuador) said that he had had the honour of participating in the establishment of the Office of the United Nations High Commissioner for Human Rights as the first High Commissioner. The Office had turned into a reality the wish of the Secretary-General of the United Nations to place the defence and promotion of human rights at the centre of the Organization's concerns. In that connection a tribute must be paid to Mrs. Robinson for the great skill and tireless energy which she had brought to her task.

30. In 1997, with the Office already standing on solid foundations, he had decided to return to his country in order to contribute, at the request of the President of the Republic of Ecuador, to the efforts to solve by peaceful means the territorial dispute which had divided Ecuador and Peru for more than a century. He had the honour to inform the Commission that a peace agreement had been concluded between the two countries on 26 October 1998, in fact on the fiftieth anniversary of the Universal Declaration of Human Rights.

31. Unfortunately, Ecuador was currently confronted by serious economic problems. It would be necessary in that connection to examine the role of the international financial institutions and regulate the international flow of money so that it did not harm either investments in the countries affected by the crisis or the circulation of non-speculative capital.

32. With regard to the human rights situation in Ecuador, it could be said that the State was largely succeeding in securing respect for the rule of law, as was demonstrated by the penalties imposed on members of the forces of law and order who had violated human rights and by the reparations made to the victims of those violations once the courts had established the responsibility of the State. In addition, Ecuador had produced its first national plan for the promotion of human rights. Civil society had been closely involved in the formulation of the plan, which was designed to protect the rights of the most vulnerable population groups, and had been described as a model of its kind by a delegation of the Office of the High Commissioner for Human Rights.

33. With regard to the Commission itself, Ecuador warmly welcomed the report of the Bureau of the fifty-fourth session on the rationalization of the work of the Commission (E/CN.4/1999/104), in whose preparation it had participated as a member of the Bureau. It also hoped that the Commission would support the recommendations of the working group of intergovernmental experts on the human rights of migrants and appoint a special rapporteur to study that question. Ecuador deplored the re-emergence of racism and wished to contribute to the success of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

34. The Government of Ecuador would continue to work actively, in collaboration with international institutions and NGOs, to ensure genuine protection for human rights in Ecuador and throughout the world.

STATEMENT BY MR. JEAN-MARTIN MBEMBA, MINISTER OF JUSTICE OF THE REPUBLIC OF THE CONGO

35. Mr. MBEMBA (Congo) said that in 1992 the Congolese people had been convinced that the establishment of a democratically elected regime had meant the end of the one-party system, tribalism, intolerance and political violence and that the country was going to set out resolutely along the path of development. It was in that climate of peace, national unity and reconstruction that Mr. Lissouba had been democratically elected President of the Republic.

36. However, during the five years of his term of office Mr. Lissouba had dashed the hopes born of the transition to democracy by systematically violating the Constitution, civil, political, economic, social and cultural rights, and international humanitarian law: dissolution of the democratically elected National Assembly; dismantling of the forces of law and order and creation of private militias; repeated attacks on the freedom of the press; erection of obstacles to the exercise of trade-union rights; persecution of opponents; squandering of the nation's assets and misappropriation of public funds; ethnic cleansing; scorn for pan-African and international organizations; and, above all, torture, summary executions and civil wars. The victims of the bloody policy pursued by Mr. Lissouba were numbered in the thousands. On 30 November 1992 the Presidential Guard had opened fire on peaceful demonstrators, killing three and wounding many. The two civil wars provoked by Mr. Lissouba in November 1993 and June 1997 had caused 2,000 and 15,000 deaths respectively.

37. Since June 1997 the present Government had been trying to restore human rights and fundamental freedoms. Amongst other things it had allowed the persons forcibly displaced by the preceding regime to return to their homes and exiled trade-unionists to return to their posts, and it had formally appealed to the members of militias to lay down their arms without fear of reprisals of any kind; it had paid the contributions owed by the State to international organizations and had ratified several international agreements and treaties.

38. Unfortunately, the social, political and military situation in the country had deteriorated in recent months owing to the acts of extortion perpetrated by the Kolelas militias and Lissouba armed gangs. For example, they had taken the Moukou Koulou hydroelectric dam by storm, depriving hospitals and many districts of water and electricity, and had taken hostage thousands of persons seeking refuge in the forests and villages, who were often denied food and care.

39. The Government sought national reconciliation and was ready to engage in negotiations to that end. However, it believed that the restoration of peace would require the surrender of the weapons of all the militias to the forces of law and order and the cessation of looting. It was aware that, from the United Kingdom where he had obtained asylum, Mr. Lissouba was plotting a

coup d'état, which might cause thousands of deaths, according to an article in The Mirror of 8 March 1999. Consequently the Government of the Republic of the Congo appealed to international institutions to help to restore the rule of law and organize free and democratic elections in the fairly near future.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (E/CN.4/1992/2 and 109; E/CN.4/1998/CRP.4)

40. The CHAIRPERSON said that the Bureau had drawn up a draft programme of work, which would be submitted to the Commission for approval within the next few days, once the Commission had had time to study it. The Bureau proposed to apply most of the decisions adopted at the preceding session concerning the conduct of debates, in particular the decisions on the time allocated to the various categories of speaker, the submission of draft resolutions, the opening and closing of the list of speakers, the quorum rule, and the exercise of the right of reply. In particular, all statements in exercise of the right of reply should be made at the end of the day or at the end of the general debate on the relevant agenda item, at the discretion of the Chairperson.

41. The secretariat would also distribute a list of the persons - rapporteurs, special representatives, chairpersons of working groups of the Commission, and representatives of other United Nations bodies - invited to take part in the Commission's consideration of certain agenda items. She invited the members of the Commission to comment on the Bureau's proposals.

42. Mr. ALFONSO MARTINEZ (Cuba) said that he was prepared to approve the rules proposed by the Bureau with the exception of the rule on the exercise of the right of reply. He would prefer a more flexible approach, whereby delegations could exercise the right of reply not only at the end of the day or at the end of the general debate on a particular item, but also at the end of the meeting at which the statement that had given rise to the right of reply was made.

43. Mr. DE ICAZA (Mexico) expressed his agreement with the comment of the representative of Cuba and pointed out that, under rule 45 of the rules of procedure of the functional commissions of the Economic and Social Council, the right of reply was accorded by the Chairman to the representative of any Member who requested it, and representatives should attempt to deliver their statements preferably at the end of the meeting at which the request was made.

44. Mr. SINGH (India) remarked that any proposal put forward by the Bureau required the Commission's approval; furthermore, rules which were applied at one session did not necessarily have to be applied at the following one.

45. The CHAIRPERSON said that the Bureau was well acquainted with the rules of procedure; in proposing certain rules, it wished only to improve the existing procedures. She recognized that it was important for the delegation concerned by a right of reply to be present when that right was exercised, and said that the Chair would use its discretionary powers to allow delegations requesting the right of reply to exercise that right at the end of the meeting at which the request was made. If there were no other objections, she would take it that the Commission approved the Bureau's proposals.

46. It was so decided.

47. Mr. PALIHAKKARA (Sri Lanka), speaking on behalf of the Asian Group, expressed the hope that the measures decided upon at the preceding session with a view to applying effective time management methods, limiting additional meetings, facilitating NGO participation in conformity with relevant ECOSOC resolutions and, above all, creating an atmosphere conducive to consultation and understanding would be followed through and strengthened at the current session. The Asian Group welcomed the continuation of the practice of the "extended Bureau", whereby regional group coordinators participated in Bureau meetings, and hoped that the frequency of Bureau meetings would increase and that the regional groups would be provided with the same facilities as at the previous session.

48. With regard to NGO participation in the Commission, there appeared to be growing consensus on the means of clarifying the role of NGOs in order to ensure that the Commission's effectiveness was enhanced by their participation. The secretariat should determine the status of each NGO before the beginning of the session and should examine requests for making statements so as to avoid abuses and repetitiousness. Joint statements should be encouraged as a means of saving time and resources. The secretariat should strictly apply the guidelines set out in ECOSOC resolution 1996/31 with a view to ensuring the objectivity and representativeness of participating NGOs and enhancing cooperation between them and government delegations. Cases of misuse of accreditation procedures to advance interests other than human rights should be immediately referred to an intergovernmental body such as the NGO Committee in New York.

49. There was a need for the Commission to develop further the areas of cooperation, consultation and consensus-building with a view to enhancing its effectiveness. Decisions adopted on such a basis would attract a wider measure of acceptance and, consequently, of compliance. Wider and more frequent consultations should be held on as many draft resolutions as possible in order to promote their adoption by consensus.

50. The Asian Group continued to feel that the length of the Commission's sessions should be reduced to four weeks. Biennialization and clustering of agenda items, reduction of the number and length of resolutions, and strict compliance with speaking time limits were all measures that would help to rationalize the Commission's work. Everything should be done to ensure that documents were distributed well in advance of the session. The Asian Group had long advocated a thorough restructuring of the Commission's agenda, but it noted that no meaningful steps had yet been taken to minimize or eliminate overlapping between various agenda items, mechanisms and documents emanating from them. It further believed that intrusive monitoring of the implementation of decisions had failed to achieve the desired result and that it was therefore necessary to adopt a consensual approach more likely to attract cooperation and compliance by governments.

51. In that connection, the Asian Group welcomed the report of the Bureau of the fifty-fourth session on the rationalization of the work of the Commission (E/CN.4/1999/104), which contained suggestions and recommendations with far-reaching implications for the Commission, its Bureau and its mechanisms. The Asian Group, like others, had made known its views on the report. Other views, including those of NGOs, would be forthcoming. All such comments were

indicative of a readiness to engage in a serious dialogue with a view to developing consensus on the important issues involved. The Asian Group supported the proposal to set up an open-ended intersessional working group to consider the Bureau's conclusions, and was ready to cooperate fully in that exercise.

52. Mr. SINGH (India), speaking on behalf of the delegations of 16 other countries (Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, Indonesia, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka and Sudan), said that the comments on the report of the Bureau of the fifty-fourth session on the rationalization of the work of the Commission (E/CN.4/1999/104) formulated by most of those delegations in document E/CN.4/1999/120 bore witness to their interest in the matter. The delegations concerned stood ready to engage in a frank and constructive discussion of all the issues touched upon in the Bureau's report with a view to reaching positive results by consensus as quickly as possible. It was, however, essential that agreement should first be achieved on a process that would enable all States to contribute effectively to such a discussion. At the present session, the Commission was working on the basis of a new agenda which was still untested in practice. It would also be called upon to deal with a number of important and urgent matters, such as the preparations for the World Conference on Racism or the restoration of consensus on the right to development. Furthermore, many proposals put forward by representatives of civil society also deserved careful consideration. In the interests of the cause of human rights, it was essential to do justice to each of those issues and to consider them in a balanced manner. As representatives of developing countries, the 17 delegations on whose behalf he was speaking would wish to contribute meaningfully to promoting the universality of human rights as part of a collective endeavour involving all the countries of the world. In that connection, they wished to point out that they would find it extremely difficult to take on additional substantive burdens without neglecting issues already before the Commission.

53. In submitting its report, the Bureau had fulfilled its mandate to make recommendations to the Commission at its fifty-fifth session. It was now for the Commission, when considering agenda item 20, to take a substantive decision on how to proceed further. As the Bureau had pointed out in the report, the rationalization of the work of the Commission could only be addressed by taking a careful look at its network of subsidiary mechanisms as a whole. The Commission should therefore take care not to repeat the mistakes of the past by engaging in a selective consideration of some issues, while neglecting others and losing sight of the larger picture.

54. For all those reasons, it would be useful if the Bureau's report were considered in a detailed and transparent manner by an open-ended intersessional working group proceeding on the principle of consensus. That had traditionally been the procedure for dealing with issues which the Commission as a whole could not consider in detail owing to time limitations. The argument that such a procedure would merely block progress was unfounded, especially since the process of review of the Commission's mechanisms and methods of work had already begun with the tabling of draft resolution E/CN.4/1998/L.2/Rev.1, subsequently withdrawn, at the fifty-fourth

session. The 17 delegations on whose behalf he was speaking intended to table a draft resolution calling for the establishment of a working group to consider the report of the Bureau of the fifty-fourth session of the Commission and other related proposals, a compilation of which might perhaps be prepared by the Office of the High Commissioner for Human Rights. The proposed working group would also consider all related issues, including transparency in negotiations, the Commission's methods of work, NGO participation and the staffing policy of the Office of the High Commissioner, which were directly related to the effectiveness and smooth functioning of the Commission's mechanisms.

55. Mr. CHOWDHURY (Bangladesh) said that he believed the growing interest in the Commission's working procedures flowed largely from the need to make the Commission and its human rights mechanisms more responsive to the new demands placed upon them. The current session provided an opportunity for a clear affirmation of general political will to rationalize the Commission's work in the interest of making it more coherent, more flexible, more creative and more effective on the eve of the third millennium. With that object in view, his delegation associated itself with the statement made on the item by the representative of Sri Lanka on behalf of the Asian Group. Genuine reforms in the Commission, whether relating to substantive discussions of agenda items or to working methods, should aim at advancing human rights globally and on an equal footing, in conformity with the Vienna Declaration and Programme of Action which recognized the universality, indivisibility and interdependence of all human rights. The spirit of the Vienna Declaration and Programme of Action, which was founded upon objectivity, non-politicization, non-selectivity and transparency, needed to be maintained in the Commission's work. It was therefore essential that in condemning human rights violations the Commission should apply the same standards irrespective of where the violations occurred.

56. The Commission was, unfortunately, being accused in certain quarters of lacking consistency in its decisions and of providing a forum for sterile confrontation. Such perceptions greatly undermined the Commission's credibility. In reality, it was lack of adequate consultation or dialogue that sometimes led to situations of non-compliance, or even to intransigence, thus creating a vicious circle of confrontation and non-cooperation which certainly did not serve the cause of human rights. Draft resolution E/CN.4/1998/L.2 and its annex, submitted at the previous session, had been intended simply to emphasize the merits of cooperation, transparency and consensus-building within the Commission. The exercise of reflection on the organization of work should provide an opportunity to seek ways of enhancing not merely the effectiveness but also the credibility of the Commission. The recommendations made in that regard by the Bureau of the fifty-fourth session deserved careful consideration.

57. Mr. KESANG (Bhutan) said that his delegation attached great importance to improving the methods of work of the Commission. It was convinced that by promoting transparency, cooperation, dialogue and consensus-building, the Commission would acquit itself more effectively of its sole task, which was to make human rights a reality for all.

58. The very comprehensive report of th Bureau of the fifty-fourth session on the rationalization of the work of the Commission (E/CN.4/1999/104), as well as all other submissions by States in that context, should be considered in a transparent and holistic manner with a view to arriving at consensus decisions. His delegation fully supported the Indian representative's proposal for the establishment of an open-ended intersessional working group to consider the Bureau's report and its related submissions, and hoped that the Commission would give that proposal serious consideration.

59. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation's views on the Bureau's report had been duly reflected in the statement made by the representative of India on behalf of 16 other countries including Cuba. He wished, however, to elaborate on a few points which he considered to be essential. No agenda item, and particularly not agenda item 20, should monopolize the Commission's attention to the detriment of other items. Furthermore, the substance of the document prepared by the Bureau of the fifty-fourth session could be considered in a thorough and transparent manner only in plenary. That was why his delegation had formally proposed that at least one additional plenary meeting should be set aside for the consideration of agenda item 20. That did not preclude the possibility of holding informal consultations on the methodology that should be adopted in analysing the Bureau's report, and, in particular, the procedure for taking decisions on the points of substance it contained. His delegation, for its part, considered that it would be preferable to adopt those decisions by consensus.

60. It further considered that if the Commission wished to enhance its effectiveness and improve the quality of its work, it was obliged, as a matter of urgency, to reform its working methods. In that connection, his delegation felt that the Commission should take account of the proposals it had advanced at the preceding session, which were contained in the annex to draft resolution E/CN.4/1998/L.2. Cuba was ready to collaborate fully with all other delegations towards the rationalization of the Commission's work.

61. Mr. AKRAM (Pakistan) said that, as the people of Kashmir knew only too well, in the field of human rights there was always the risk of doing too little too late. The Commission's responsibility was so great and the existing international instruments were so imperfect that there was also the further risk that States, groups or organizations might use human rights for partisan ends, thus doing a disservice to the cause they claimed to be serving.

62. With regard to the report on the rationalization of the work of the Commission prepared by the Bureau of the fifty-fourth session, which deserved thanks for carrying out that task, his delegation thought that the Commission should examine the report in a thorough and transparent manner and should arrive at consensus decisions on the proposals contained in the report in the interests of ensuring universal recognition and support for the human rights mechanisms.

63. Speaking on behalf of the member States of the Organization of the Islamic Conference (OIC), he reminded the Commission that Islam was a religion of peace which had enunciated the concept of human rights more than 14 centuries earlier. The OIC member States therefore found it extremely

disturbing that at recent sessions of the Commission and the Sub-Commission attempts had been made to misinterpret the divine tenets of Islam and to cast Islam in the most negative light possible. The OIC did not seek in any way to deny the right to freedom of expression; it simply asked that the right be exercised in a responsible manner. It therefore urged all parties to desist from attacking other religions or beliefs and to work in a spirit of cooperation and respect of the various streams of thought represented within the Commission.

64. The OIC appreciated the efforts made by previous Commission chairpersons, especially Mr. Selebi, to introduce transparency into the work of the Commission. However, a great deal still remained to be done to achieve that goal, especially with regard to so-called "country resolutions". Steps should be taken to ensure the widest possible participation in the preparation of resolutions adopted by the Commission. There was also a need to examine whether the resolutions submitted to the Commission measured up to the principles of non-selectivity and objectivity proclaimed by the Vienna Conference.

65. With regard to NGO participation in the work of the Commission, the members of the OIC hoped that the Chairperson would ensure that the established rules were duly observed. Furthermore, given the fact that most delegations of OIC member States were small and could not take part in all the work undertaken simultaneously during sessions, it was desirable that consultations or negotiations on draft resolutions or decisions should be announced at least 24 hours in advance and that such negotiations and consultations should be organized in such a way as to ensure the widest possible participation.

66. In conclusion, he said that the OIC welcomed the report of the Bureau of the fifty-fourth session on the rationalization of the work of the Commission. It shared the view that the Commission and its mechanisms were in need of reform and favoured a thorough and comprehensive consideration of all proposals. The OIC members believed that an open-ended intersessional working group should be set up to examine all those issues with a view to arriving at consensus decisions.

The meeting rose at 12.55 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 March 1999, at 3 p.m.

Chairman: Mrs. ANDERSON (Ireland)

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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

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GE.99-11641 (E)

The meeting was called to order at 3 p.m.

STATEMENT BY THE DEPUTY PRIME MINISTER AND MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF YEMEN

1. Mr. BAJAMAL (Republic of Yemen) said that his presence in the meeting expressed the importance his country attached to promoting human rights and ensuring that all human beings had the right to a decent and safe life. That was only possible if all rights were guaranteed, including freedom of thought and expression and the right to work.

2. Human rights principles had sometimes been misused by political alliances, with counterproductive results. Human rights reports were sometimes selective and intentionally distorted, ignored criteria of justice and equal treatment and failed to provide appropriate guidance. Such reports had become a means of exerting political pressure and spreading slander. When human rights were under consideration, it was clearly important to bear in mind religious, cultural and intellectual aspects, traditions and the historical context.

3. Yemen had been united through a process of democratization. A new civil society had emerged with a new legislative, executive, political and cultural foundation. Since unification on 22 May 1990, parliamentary elections had been held in 1993 and in 1997, with the participation of all the democratic political parties.

4. In the forthcoming months, Yemen would host a conference of emerging democracies, an event that illustrated his country's commitment to helping the stabilization of democracy in developing countries.

5. Yemen had made great progress in human rights. It currently had 18 political parties and numerous trade unions and federations. There were a number of associations active in defending democracy and human rights.

6. The National Committee for Human Rights, set up in 1998, had conducted seminars on human rights and issued postage stamps commemorating the fiftieth anniversary of the Universal Declaration of Human Rights. A working committee was investigating the disappearances which had taken place during the domestic conflict. Art exhibitions and media events had been organized on the subject of human rights.

7. The medium-term government plan of action for 1998-2000 was designed to promote human rights principles in Yemen, spread the culture of human rights in the population and consolidate the principle that individuals could defend their own rights. The plan of action included holding elections and giving priority to children, compulsory education and the needs of disabled people, as well as setting up governmental and non-governmental human rights advisory bodies to make people more aware of such issues, so that a human rights culture could take root.

8. His Government looked forward to cooperating with the High Commissioner for Human Rights so as to make the most of the assistance offered by her Office in 1999.

9. Human rights problems could not be resolved overnight. Many measures needed to be enacted, and that was why his Government was working to implement all the provisions of the Universal Declaration of Human Rights together with the High Commissioner's proposals.

10. Yemen was still encountering problems in promoting human rights. Economic, structural and administrative reform had had an adverse impact on some economic, social and cultural rights. His Government had introduced a number of economic measures to tackle unemployment and poverty and enhance the participation of women. He appealed to international bodies and non-governmental organizations (NGOs) to assist Yemen in finding solutions to its problems in the areas of employment, education and health.

11. Yemen had been seeking to improve its social security system so as to guarantee everyone's right to health care. His Government had asked for international assistance in funding that effort, which would cost the equivalent of some US$ 200 million.

12. Concerning political problems, his country had recently seen an upsurge of terrorist violence which violated the most fundamental human rights and constituted a danger to peace and security in both Yemen itself and the region generally ...

13. The CHAIRMAN said she regretted to inform the speaker that he had exceeded his allotted time.

14. Mr. BAJAMAL (Republic of Yemen), concluding his statement, said that Yemen fully supported the Commission in its noble efforts to promote human rights.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1999/2 and 109; E/CN.4/1998/CRP.4)

15. Mr. QIAO Zonghuai (People's Republic of China) said that power politics and political confrontation in international relations were increasingly giving way to dialogue and cooperation. Unfortunately, for many years political confrontation had held sway in the Commission. The time had come, however, to repudiate the cold war mentality and improve the methods of work of the Commission and international cooperation in the field of human rights.

16. It was essential to respect the principle of democratic consultation and oppose any monopoly by a few. Within the United Nations system, democracy meant respect for the rights of each country, whether big or small, strong or weak, rich or poor. The Commission must listen to the views of its member States on every issue, improve transparency in its decision-making and promote the process of reform on the basis of broad-based participation and full consultation.

17. Differences must be resolved through a dialogue between equals and confrontation rejected. It was only natural that different countries should have different views on various aspects of human rights. In the past, politicization of human rights and double standards had considerably compromised the Commission's effectiveness.

18. Equal importance must be attached to both economic, social and cultural rights and civil and political rights. Special attention must be given to putting an end to the practice of ignoring the right to life and to development.

19. It was important to strike a proper balance between universality and particularity and to respect the options chosen by each country to promote and protect human rights. China acknowledged the universality of human rights, but also believed that particularities existed. The 53 States members of the Commission were at different stages of development and were faced with different situations. It was reasonable for the Government and people of each country to determine their human rights priorities according to their own national conditions. Any attempt to impose one set model or one way of doing things or to make unwarranted accusations could only be counterproductive.

20. Ms. KUNADI (India) said that the working methods of the Commission had to be kept under constant review in order to maintain their effectiveness. In that connection, her delegation endorsed the statement by the coordinator of the Asian Group.

21. The good start made at the fifty-fourth session in reforming the organization of the Commission's work must continue. Timely availability of documentation remained a problem. Efforts to reduce the number and length of resolutions must continue. Transparency and full participation in the process of proposing and adopting resolutions must be taken further. The agenda had been considerably rationalized in 1998, and the Commission must explore all possibilities of achieving further improvement without increasing the workload.

22. The Commission must seek ways to improve contributions by NGOs while ensuring that their participation conformed to Economic and Social Council resolution 1996/31 and contributed to the consideration of human rights issues.

23. Additional meetings should be kept to a bare minimum, and the Commission must gradually move towards a shorter session of four weeks, a goal long supported by the Asian Group. Such reforms could be implemented without sacrificing the Commission's basic objectives.

24. Consideration of the report of the Bureau of the fifty-fourth session (E/CN.4/1999/104) was an important issue on the agenda. Her delegation had long supported the need for the Commission to monitor and assess the functioning of its mechanisms at each session, to consider their rationalization wherever required and to provide them with guidance in their work. The Commission's effectiveness depended to a large extent on the relevance, credibility and accountability of its mechanisms.

25. An appropriate, fair and transparent process for the comprehensive consideration of the report of the Bureau must be devised to involve all parties and observer States. Her delegation thought that the report should be considered in a post-sessional open-ended working group.

26. Mrs. BAUTISTA (Philippines) said that, at the fifty-fourth session of the Commission, her delegation had been a sponsor, together with 17 other delegations, of draft resolution E/CN.4/1998/L.2, designed to enhance the effectiveness of the Commission. Although that draft resolution had later been withdrawn in favour of Commission on Human Rights decision 1998/112, it had set in motion the process of reviewing the Commission's mechanisms.

27. Her delegation was pleased that the Bureau of the fifty-fourth session of the Commission had been able to accomplish the task mandated by decision 1998/112 and submit its report and recommendations. It was currently for the Commission to decide on measures that would best enhance the functioning of its mechanisms. An open-ended inter-sessional working group offered the best avenue for a careful and balanced consideration of the Bureau's recommendations and any alternative proposals.

28. In supporting the establishment of an open-ended inter-sessional working group, her delegation did not rule out an in-session discussion of the issues, including the possibility of reaching an agreement on some of the matters raised in the Bureau report. However, it had doubts as to whether a consensus could be reached on a decision during the current session, given the hectic schedule and the plethora of equally important and contentious matters on the agenda.

29. Many small delegations would have difficulty in actively participating in discussions over extended periods without neglecting other issues of specific concern to them. Consequently, even if discussions were held during the current session, an inter-sessional working group would still be needed to continue the work. An early agreement on the need for such a group would thus be desirable to clear the way for more meaningful discussions on real issues.

30. Mr. SUTOYO (Indonesia) said that his delegation endorsed the views expressed by the coordinator of the Asian Group. Serious consideration still needed to be given to managing the Commission's schedule effectively, limiting meetings and maintaining a good atmosphere conducive to consultation and dialogue.

31. It was likewise of paramount importance that the current session should take place in a calm and dignified atmosphere. His delegation did not believe that the Commission should politicize issues by pointing a finger at any particular Member State. It was a well-known fact that the increased politicization of human rights had resulted inter alia from a proliferation of Commission mechanisms which had developed in an unsystematic manner.

32. With that in mind and given the fact that the mechanisms of the Commission were aimed at helping to protect and promote of human rights throughout the world, the need to enhance the effectiveness of those mechanisms was of concern to all Member States; such a process should be conducted in a transparent and realistic manner aimed at achieving consensus. As for the negotiation process of the review mechanisms, his delegation endorsed the statement by the representative of India on behalf of 16 countries, which properly addressed the procedural aspects of the matter.

33. He commended the efforts made by the Bureau of the fifty-fourth session in preparing its report (E/CN.4/1999/104) on the rationalization of the work of the Commission. The Bureau had not, however, had the benefit of comprehensive and substantive discussions; a thorough consideration of its recommendations should therefore be a matter of priority. An open-ended inter-sessional working group should be established without delay to examine the report and all other submissions. Other efforts to build confidence should also be encouraged.

34. Mr. ZAHRAN (Observer for Egypt) said that the human rights instruments should be applied across the board. In that context, he favoured the establishment of an open-ended inter-sessional working group on reforming the Commission machinery; it would enable the Commission to avoid politicization and to adopt draft resolutions by consensus.

35. With regard to the various agenda items, and particularly to item 8, he urged that non-members of the Commission should be given enough time - preferably up to 10 minutes - to express their views on the issues, particularly if a draft resolution was in question. In that connection, he referred to the fact that the secretariat's note on statistics relating to the fifty-fourth session (E/CN.4/1999/109) revealed that the member States had taken up the lion's share of the allocated speaking time: the work of the Commission should be rationalized. He was also concerned that documents were not distributed on time.

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 4) (E/CN.4/1999/3 and Corr.1, -/Add.1 and Corr.1-2, -/Add.2 and E/CN.4/1999/9)

36. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), introducing her annual report (E/CN.4/1999/9), said that the document built on the report submitted to the General Assembly the previous autumn and dealt with some of the pertinent issues on the Commission's agenda. It referred to recent changes in the management of the Office of the High Commissioner for Human Rights (OHCHR) in the areas of structure, financial monitoring and policy planning which had enhanced its capacity to face the human rights challenges of the new century. It also outlined the OHCHR's approach to technical cooperation and the role and activities of human rights field presences.

37. There were two important cross-cutting issues that deserved attention. The previous year, the Commission had focused on the human rights of women and gender-related issues. It had decided to include on its agenda an item on those issues and consider the human rights of women as an important aspect of each agenda item. It was to be hoped that the Commission could continue on the momentum from the fifty-fourth session to deepen its understanding of the human rights of women and make its action to protect those rights more effective.

38. The year 1999 marked the tenth anniversary of the Convention on the Rights of the Child, and in that context, the Chairman of the Commission had said that she intended to focus on the related issues. A number of other

initiatives were planned for 1999, in which all those concerned would be asked to reflect on the Convention and consider what action could be taken to strengthen its implementation.

39. Another important challenge for the fifty-fifth session would be to plan and prepare for the World Conference against Racism and Racial Discrimination. The OHCHR would be working closely with the Commission and the sessional working group on that matter.

40. Each year the importance of the Commission grew as a unique global forum bringing together Governments, NGOs and intergovernmental bodies to discuss essential human rights issues. In response to the growing interest in the Commission, arrangements had been made for its debates to be broadcast live on the Internet. That was the first major conference at Geneva to be broadcast on the World Wide Web, giving people around the world instant access to the Commission and its work.

41. The CHAIRMAN pointed out that the High Commissioner's report was concerned with generic issues, such as trends in the work of her Office, and asked speakers to avoid making statements on subjects not directly related to those issues.

42. Mr. LEGWAILA (Botswana) said that the High Commissioner's task was a particularly arduous one, since she was not only answerable to her masters but had also constantly to remind them of their responsibilities with regard to human rights. The High Commissioner and her staff had not, however, wavered and it was heartening to note that she worked with civil society in pursuing a shared goal.

43. His Government firmly supported the establishment of the two international tribunals for Rwanda and the former Yugoslavia and the adoption of the Rome Statute of the International Criminal Court, which would remind those who committed heinous crimes against humanity that their actions would not go unpunished.

44. His Government took seriously its responsibilities under the Convention on the Rights of the Child. Its national policies had long afforded children adequate health and educational facilities; and national legislation had been put in place before the Convention had been ratified. Child prostitution and the use of children as soldiers were abhorrent practices.

45. Women's rights were another important area of concern. With its history of a paternalistic culture, it had not always been possible for Botswana to avoid the trappings of male domination when developing policies and legislation. Its vibrant democracy had, however, made it possible to agree that all laws hampering the enjoyment of equal rights by women should be removed.

46. As for human rights institutions, civil society had a crucial role to play without undue interference from the Government. Such institutions, making an invaluable contribution to official policy, already existed in Botswana; they and the Government were partners in the promotion and protection of human rights.

47. Ms. KUNADI (India) said that the High Commissioner and her Office constituted the principal means by which United Nations human rights programmes and activities were carried out and should therefore fully reflect the diversity of United Nations membership, reaching out to every region and culture. Similarly, the Commission, as the principal intergovernmental human rights forum, should provide the Office with regular guidance. That was the best means of strengthening the High Commissioner's hand.

48. The report (E/CN.4/1999/9) attached importance to such issues as early warning, monitoring mechanisms and prevention. They were undoubtedly important but the principal task of the Office was to promote human rights through capacity-building, human rights education and vigorous advocacy of a culture of tolerance. That was, moreover, the most cost-effective way for it to carry out its mandate. Duplication with other agencies in areas such as conflict prevention should be avoided.

49. Promotion of the right to development was one of the most important elements of the High Commissioner's mandate. She trusted that the High Commissioner would turn her Office into an effective instrument for the promotion of that right by providing adequate support in terms of staff and resources. The High Commissioner, whose advocacy of the cause of economic, social and cultural rights was particularly welcome, should promote discussions on various aspects of those rights - tasks currently undertaken by the Committee on Economic, Social and Cultural Rights alone - given the continuing bias towards civil and political rights in the Office's activities and programmes.

50. The treaty bodies, which were a most effective human rights mechanism, should also be given more support, if necessary through a redeployment of resources from within the OHCHR budget. It was also a matter of concern that resources for the technical cooperation and advisory services - which were particularly effective ways of promoting human rights - had been steadily declining. The distinction between the Office's technical cooperation and monitoring functions should be clearly maintained.

51. Commission resolution 1997/76 specifically called for an assessment of the effectiveness of field operations but such an assessment had yet to be provided. Moreover, all "monitoring" field operations should gradually be transformed into ones undertaking primarily technical cooperation activities in order to build local capacity.

52. Her Government remained concerned that the procedures by which appointments to the Office were made, especially those to posts funded through voluntary contributions, remained opaque. All vacancies should be widely advertised and made known to all Member States. The multilateral nature of the Office, which risked being compromised, must be preserved. The Office's independence and credibility were also at risk from the sharing of personnel with other agencies. All in all, greater transparency - reflecting a balanced appropriation of resources and staff - was required. Member States should also be informed what proportion of the general budget went to specific programmes.

53. Miss HERNANDEZ QUESADA (Cuba), having deplored the delay in distributing the High Commissioner's report and other documentation, expressed concern at the objectives set out in paragraph 88 of the report (E/CN.4/1999/9). The "Declaration on Human Rights Defenders", was highlighted but there was no mention of the right to development, the importance of which had been stressed by the Vienna Declaration and Programme of Action. To omit any reference thereto was to ignore an important part of human rights development over the past 50 years.

54. Her delegation had also studied with interest the report of the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme (E/CN.4/1999/3). All such groups had been set up by the Commission and should be dependent on it. Yet decisions were being made - regarding the draft United Nations Code of Conduct for Officials other than Secretariat Officials and for Experts on Mission (A/52/488/Add.1) or the revised draft manual for chose participating in the meeting - to which the Member States could make no direct contribution. There was also a risk of confusion between the functions of the thematic procedures and the treaty bodies. The new concept of coordination of the subject of human rights was unacceptable, according to her delegation's understanding of the provisions of the Charter of the United Nations.

55. Her delegation shared the High Commissioner's concern at the tendency for some States to finance specific mandates, leading to the risk of creating rich and poor mandates. The lack of financial and logistical support for mechanisms dealing with economic, social and cultural rights was also a matter of concern.

56. Of still greater concern was the study of the High Commissioner for Human Rights on procedures for ensuring implementation of, and follow-up to, recommendations of special rapporteurs/representatives, experts and working groups (E/CN.4/1999/3/Add.1), which seemed to cast the Commission in a passive role whereby it did nothing more than create a mandate. Nevertheless, it was for the Commission to undertake the task of devising a follow-up procedure, with assistance from the Secretariat and, above all, from the OHCHR, which acted as a human rights nerve centre for the United Nations system. The prime responsibility must, however, remain with the Commission.

57. Mr. LIU Xinsheng (China) said that his delegation appreciated the High Commissioner's appeal for cooperation on human rights among countries rather than unnecessary political confrontation. It was also gratifying that she was attaching greater importance to economic, social and cultural rights and improving the effectiveness of the interior coordination of her Office.

58. There had been several successes also in the field of advisory services and technical cooperation, when countries had been able to put forward cooperation projects in line with their national situations. The seven workshops that had been organized in the Asia-Pacific region, with the assistance of the OHCHR, had been useful in setting up regional technical cooperation arrangements.

59. General Assembly resolution 48/141 had provided the High Commissioner with a basis for engaging in dialogue and cooperation with countries; her Office was a part of the United Nations Secretariat, its major function being to provide service to the Commission and to its member States. The High Commissioner's visit to China in September 1998 had been a success and Chinese officials had participated in a training course in human rights. The first steps had been taken in the direction of cooperation on the basis of equality.

60. When developing field activities, the OHCHR should always seek prior consent from the countries concerned. Activities should never constitute an enlargement of the Office's mandate or interference in the internal affairs of the countries concerned.

61. Although the Office had recently been enlarged, the geographical imbalance in the composition of its staff persisted. More employees from Asia, Africa and Latin America should be recruited.

62. Mr. SKOGMO (Norway) recalled that the High Commissioner's work was based on a mandate given her by the General Assembly. The Commission should refrain from any action that might suggest that it questioned the integrity of that mandate. Secondly, his delegation was painfully aware that the High Commissioner had to implement that mandate on a very small budget. His Government had consistently advocated that more resources should be provided, but it believed that the allocation and use of such resources should continue to be governed by the General Assembly and not be subject to detailed discussion by the Commission.

63. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that international cooperation - one of the main contributions of the Vienna Declaration and Programme of Action - was of the utmost relevance to the current needs of the international community. Commission resolution 1998/81 had reaffirmed the importance of ensuring the universality, objectivity and non-selectivity of consideration of human rights issues. Both the General Assembly and the Commission had recently seen an unprecedented number of consensus resolutions; but the situation was still unsatisfactory: some actions remained politically motivated, while others fell victim to expediency.

64. As for the issue of cooperation between the special procedures and the High Commissioner, his delegation believed that the creation of new mandates and mechanisms should be avoided. The Member States and the Office of Legal Affairs should be involved in the process of preparing the draft Code of Conduct and revised draft manual thus enriching their texts. The mandates of the special procedures should also be reviewed to avoid overlapping. Lastly, he commended the efforts of the High Commissioner and the Secretariat in preparing and convening in 1998 the seminar entitled "Enriching the universality of human rights: Islamic perspectives on the Universal Declaration of Human Rights", which had been a contribution to a better understanding between the various historical, cultural and religious traditions. It was a valuable first step towards a wider dialogue.

65. Mr. van der HEIJDEN (Observer for the Netherlands) said that, since the High Commissioner's mandate was based on General Assembly resolution 48/141, it was not the Commission's task to pursue every detail of her work but only to give general guidance. His delegation welcomed the fact that the senior staff structure of the Office was in place and urged the High Commissioner to contribute - personally, if possible - not only to the various human rights committees but also to those relating to development, conflict prevention, peacemaking, peace-keeping and peace-building.

66. The principal responsibility for the protection of human rights lay with national Governments. In theory, therefore, the Commission could act as a forum for encouraging action and monitoring progress on achievements in the field of human rights. It was, however, discouraging that, within the Commission, the human rights rhetoric increased with every year but the political will to care for those suffering human rights violations seemed to decrease commensurately.

67. Ms. GLOVER (United Kingdom) endorsed the statements made by the representative of Norway and the observer for the Netherlands, and commended the High Commissioner on her report. Given the fullness of the report, however, it was somewhat disappointing that more expressions of support for the work done by the High Commissioner and her Office around the world had not been forthcoming. She was pleased to note the emphasis placed in the report on the interrelationship between economic, social and cultural rights and civil and political rights, and on the universality and indivisibility of human rights.

68. Mr. DOLGOBORODOV (Russian Federation) said that the ideals and principles of the Universal Declaration of Human Rights and other human rights instruments had taken on new significance in the Vienna Declaration and Programme of Action. However, despite a number of positive developments, the international community had yet to deal successfully with human rights violations in armed conflicts, executions and torture, ethnic cleansing, extreme poverty and the underlying causes of mass exoduses.

69. It was obvious that the goals of the Declaration and Programme of Action could be achieved only with the full participation of the entire United Nations system. As the High Commissioner had noted in her most recent report to the General Assembly, placing human rights at the centre of United Nations activities was the unifying factor that could bind the work of the United Nations system. Accordingly, the High Commissioner should continue to strengthen the coordination of all activities within the system for the promotion and protection of human rights and should participate in the work of the executive organs in the four main areas of United Nations activities.

70. Another important aspect of the follow-up to the World Conference was improving, strengthening and rationalizing the work of the Organization's own human rights machinery. It was to be hoped that, during the current session, action could be taken on the recommendations made by the Bureau of the Commission's fifty-fourth session (E/CN.4/1999/104). Some interesting, though perhaps controversial, proposals could also be found in the report of the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and

of the advisory services programme (E/CN.4/1999/3). While his delegation considered exchanges of views between special procedural bodies and treaty bodies to be useful, such joint activities must respect the mandates of each of the bodies concerned.

71. Although the session had just begun, a number of speakers, including the High Commissioner herself, had already touched on questions of human rights violations. His delegation endorsed the conclusion in the High Commissioner's report (E/CN.4/1999/9) that many of the most serious violations of human rights were foreseeable, and that effective international preventive action might have saved many thousands of lives. Any discussion of preventive measures should focus not only on conflict situations but, more broadly, on preventing violations of the whole range of human rights. That approach was the one most consistent with the Vienna Declaration and Programme of Action.

72. Mr. GARANG de MABIOR (Christian Solidarity International), having expressed his gratitude to Christian Solidarity International for allowing him to speak on behalf of the marginalized and persecuted people of the Sudan, said ...

73. Mr. IBRAHIM (Sudan), speaking on a point of order, asked whether it was permissible for a notorious rebel, who had been waging civil war against the Sudanese Government for 16 years, to address the Commission, particularly when, earlier in the day, he had introduced himself publicly as the Chairman of the Sudan Peoples' Liberation Movement.

74. The CHAIRMAN said that, according to Economic and Social Council resolution 1996/31, any NGO having a duly recognized consultative status with the Council was entitled to address the Commission. The speaker in question had been duly accredited by Christian Solidarity International and was therefore entitled to take the floor.

75. Mr. IBRAHIM (Sudan) said that he wished to appeal against the Chairman's ruling under rule 42 of the rules of procedure, which stated that such an appeal should be immediately put to the vote. He requested that the vote on his appeal should be taken by roll-call.

76. Mr. FERNÁNDEZ PALACIOS (Cuba) said that a roll-call vote would hold up the work of the Commission, which had only just begun. He urged that discussion of the matter should be postponed to allow delegations to consult on the subject of the participation of NGOs.

77. Mr. LABBÉ (Chile) said that NGOs made a vital contribution in the area of human rights, and their right to address the Commission had been acknowledged. Any attempt to invoke rules of procedure with a view to preventing an NGO from exercising its right to participate in the work of the Commission should be dealt with expeditiously.

78. Mr. H.K. SINGH (India) recalled that the position of the Group of Asian States regarding the participation of NGOs in the work of the Commission had been explained at the previous meeting.

79. Mr. AKRAM (Pakistan) proposed that the meeting should be suspended briefly so that delegations could consult on the matter.

The meeting was suspended at 4.55 p.m. and resumed at 5.05 p.m.

80. The CHAIRMAN said that, during the suspension, the representative of the Sudan had agreed to withdraw his appeal against her ruling and his request for a roll-call vote. She invited the representative of Christian Solidarity International to resume his statement.

81. Mr. GARANG de MABIOR (Christian Solidarity International) said that the genocidal character of the war waged by the current regime in Khartoum had been well documented by individuals and by organizations ...

82. The CHAIRMAN said that, although she wished to uphold the rights of NGOs to address the Commission, the statement being made by the representative of Christian Solidarity International was not germane to the agenda item under consideration. She would therefore give the floor to the next speaker on her list.

83. Mr. LITTMAN (Association for World Education) said that the efforts made by the United Nations over the years in the area of human rights were seriously threatened by the attempts of certain States to revise the universally recognized code of human rights that was embodied in the Universal Declaration of Human Rights. In that connection he drew attention to a seminar that had been jointly sponsored in November 1998 by the OHCHR and the Organization of the Islamic Conference (OIC) on the theme of "Islamic Perspectives on the Universal Declaration of Human Rights". While the seminar which had focused on the Shariah, had been intended to promote understanding and respect among peoples, it raised the question of whether an intellectual analysis of theologically inspired legal traditions could be used for political purposes. The issue was of particular relevance if the intent was to weaken the provisions of the Universal Declaration or to exempt certain States from its provisions.

84. While debates on the nature of Shariah law could be of genuine intellectual interest, they were not relevant to the Universal Declaration of Human Rights or to intergovernmental decisions based on that instrument. The same was true of the sacred texts of any other religious or ethnic group. It was precisely because the Declaration was universal that it constituted a common base for relations between people of different nations and cultures.

85. Human dignity could be properly affirmed and protected only within a framework of interrelated democratic norms, principles and institutions. He therefore sought reassurance that the commitment to protecting human values which had begun in 1948 with the Declaration was not affected by challenges from any State or group of States within the United Nations or elsewhere. He also called upon the High Commissioner and the Commission to express their support for the concept of the universality of human rights.

86. Mr. NARANG (Indian Council of Education) said that the precise relationship between the Commission and the High Commissioner for Human Rights was not yet clear. Concerns about the role of the High Commissioner vis-à-vis the Commission needed to be resolved at the earliest opportunity.

87. The World Conference on Human Rights had recognized that increased international cooperation was vital to the creation of conditions in which full respect for the dignity of all human beings was ensured, but not much had been seen of such cooperation. It had been clearly accepted at the World Conference that the right to development was as important and universal as civil and political rights, but the international community, especially the developed industrial countries, had made little contribution to the implementation of that right.

88. The international community also turned a blind eye to various threats to democracy. Terrorist and fundamentalist groups were threatening democratic elections, with the support and help of foreign countries, and so far there was no organized way of dealing with such a situation. Individual powerful countries made their own decisions about terrorism, and took action against other countries, purely according to their own needs and designs.

89. Mr. WAREHAM (International Association Against Torture) said that his organization had for some time been advocating the appointment of a special rapporteur on racism and the conveneing of a World Conference on racism and racial discrimination, xenophobia and related intolerance. He had been surprised, therefore, to read in the High Commissioner's report (E/CN.4/1999/9) that the preparations for the World Conference, and the Conference itself, were a priority of her Office and that it intended to play a catalytic role in bringing together the activities of the United Nations and its specialized agencies in preparing for the Conference since he had been unaware that it was a priority and had not noticed that the Office was acting as a catalyst. The working group of the Commission - not a preparatory committee it would be noted - had been allocated insufficient time to prepare for a World Conference that was to be held within two years.

90. The High Commissioner should make the World Conference a reality by launching an immediate publicity campaign on a worldwide basis. In addition to the voluntary trust fund, resources should be allocated from the regular budget and the Secretary-General should make it clear that the World Conference was a genuine priority of the United Nations. Funds should be solicited in particular from the transnational corporations whose practices and policies secured financial benefits from racism and served to propagate and continue it.

91. Mr. GONZALEZ (International Indian Treaty Council) said his organization strongly condemned the rejection by the Government of Guatemala of the recommendation of the Commission for Historical Clarification that the Agreement on Identity and Rights of Indigenous Peoples be implemented in its entirety.

92. The CHAIRMAN said that the speaker was out of order, since the agenda item under consideration did not allow for a detailed treatment of specific country situations.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 5) (E/CN.4/1999/10 and 11; E/CN.4/1999/NGO/32, 58 and 59)

93. Mr. ZAKI (Pakistan) said that exercise of the right to self-determination had unfortunately remained incomplete in the Indian sub-continent in 1947, because the people of Jammu and Kashmir had been prevented from exercising their right to join the new State of Pakistan. Security Council resolutions in 1948 and 1950 had determined that the final disposition of the State of Jammu and Kashmir would be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under United Nations auspices, a solution that had been approved by the Indian Government of the time

94. Subsequently, however, India had resiled from its commitment and the Kashmir dispute had remained a festering sore in South Asia, leading to three wars between India and Pakistan. Numerous bilateral attempts to resolve the conflict had been fruitless and, since January 1990, the Kashmiris had been conducting a resistance campaign against Indian occupation and repression. During that period there had been confirmation from many sources of human rights violations in Indian-held Kashmir.

95. Immediately after assuming office in 1997, the Prime Minister of Pakistan, Mr. Nawaz Sharif, had taken the bold step of seeking a resumption of the dialogue with India on Kashmir and other issues. After an initial hesitation, the Indian Government had responded and, in September 1998, the two Prime Ministers had agreed to resume negotiations on the basis of an eight-point agenda which included consideration of the Kashmir and security issues.

96. In February 1999, they had signed a declaration at Lahore that the two Governments would intensify their efforts to resolve all issues, including that of Jammu and Kashmir. Since then the two Foreign Ministers had met and agreed to carry forward the process of improving bilateral relations. In talks to be held in the latter half of April 1999, Pakistan would propose that the issue of Jammu and Kashmir be addressed in a serious and meaningful manner consistent with the international commitment to the exercise by the Kashmiri people of their right to self-determination.

97. Progress towards a solution of the Kashmir issue and the normalization of bilateral relations could not be expected, however, so long as the Indian forces in Kashmir continued their brutal routine of repression. It was therefore essential as a first step that the situation in Indian-held Kashmir be "humanized". To that end, India should release all Kashmiri leaders in detention, allow Kashmiri leaders their right to travel outside the country, allow humanitarian assistance to the suffering people of Kashmir, withdraw its army of occupation and fulfil its promise to hold a free and fair plebiscite under United Nations auspices.

98. Mr. IDRIS (Sudan), referring to the fact that a number of United Nations resolutions affirmed the right of the Palestinian people to self-determination, including the right to have an independent state of their

own, said that those resolutions required the withdrawal of Israel from all occupied Palestinian territory, including East Jerusalem, and from the other Arab territories occupied since 1967.

99. Mr. CHOWDHURY (Bangladesh) said that to deny any nation the right to self-determination was to do violence to fundamental human values. Throughout history, the Palestinians had been a people and a nation, but they were still being denied the basic right to self-determination. Their lamentable plight was well known, and its key cause was the act of occupation. If such a gross injustice were allowed to continue, it would be a sad commentary on the times and a serious challenge to the credibility of the Commission. Bangladesh had always endorsed the call for a separate state for the Palestinian people in their homeland, on the basis of the simple idea that every human being must be allowed a life of dignity in freedom and the enjoyment of the full spectrum of civic choices.

100. Mr. RAMLAWI (Observer for Palestine) said that over a period of more than 30 years, the Commission had been calling on the Government of Israel to withdraw from Palestinian territory. As its many resolutions made clear, Israel's military occupation was the serious obstacle hindering the Palestinian people's exercise of their right to self-determination. The Commission had even stated that the achievement of a just, permanent and comprehensive peace in the Middle East region was organically and fundamentally linked to the exercise of that right.

101. Israel's military occupation of Palestinian territory not only hindered the exercise by the Palestinian people of their right to self-determination but also constituted a grave and constant breach of the provisions of Articles 1 and 55 of the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, not to mention resolutions of the Commission, the General Assembly and the Security Council.

102. Israel's disregard for the peace process fell within the framework of its overall disregard for international legitimacy and its refusal to abide by its international commitments. Israel's concept of peace was based on the usurpation of others' land, the confiscation of the Palestinian people's rights and of security for Israel rather than peace for all the peoples of the region.

103. Mr. SAAD (Observer for Iraq) said that his country was being subjected to large-scale violations of its sovereignty, independence and self-determination by two permanent members of the Security Council, namely, the United States of America and the United Kingdom, which had imposed, and subsequently enlarged no-fly zones in northern and southern Iraq. That was a unilateral and illegitimate action unconnected with the Security Council resolutions relating to Iraq.

104. The United States of America had sent land forces into northern Iraq in 1991, and had launched missile attacks in 1992, 1993 and 1996, which had caused great material and human losses. The United States and the United Kingdom had committed a military aggression against Iraq in December 1998, killing hundreds of citizens and destroying the country's

industrial, defence and security base without any legal justification. They had committed a further military aggression in January 1999 against the city of Basra, killing 17 people and wounding more than a hundred.

105. The United States Government had allocated US$ 97 million to finance and train mercenaries and to finance a radio station in Prague beaming broadcasts to Iraq in an endeavour to change its Government. The United States and the United Kingdom were continuing spying missions in Iraqi airspace on the pretext of protecting the no-fly zones, and were continuing to impose an economic embargo notwithstanding Iraq's fulfilment of its obligations under the relevant Security Council resolutions.

106. The military aggression, the imposition of no-fly zones and the declaration by the United States Government of its plans to change the Government of Iraq represented a flagrant violation of the Charter of the United Nations, international legitimacy, the principles of human rights, the principles of sovereign equality, political independence and territorial integrity of States, and the non-use of force or threat of force in international relations, as well as the self-determination of peoples. Iraq called upon the Commission to demand that the United States of America and the United Kingdom desist from the activities they were undertaking against Iraq and its people.

107. Mr. SOUALEM (Observer for Algeria) said that the fate of the Palestinian people was one of the most striking examples of the denial of the right to self-determination. The attitude of the Israeli authorities, was the main factor blocking a peace process which had been welcomed and supported by the international community as a whole. Even more serious was the fact that the Israeli administration had embarked upon a series of measures to create new settlements, seal off territories, demolish Palestinian homes and threaten new annexations of territory.

108. The hopes raised by the Accords of October 1998 had foundered in the face of Israel's intransigence and repeated repudiation of its commitments under the pretext of unjustified security considerations. Israel's security could not be guaranteed at the expense of the rights of the other peoples of the region; it was indissociable from the security of the region as a whole. The General Assembly and the Commission itself had every year called upon Israel to meet its obligations under the Charter of the United Nations and the principles of international law and to withdraw from the occupied Palestinian territory, including Jerusalem.

109. The United Nations had undertaken to hold a referendum on self-determination in Western Sahara by the end of 1999 and, despite a number of difficulties, there were grounds for hoping that the operation would be resumed smoothly. Enabling the people of Western Sahara to exercise their right to self-determination would be an extremely positive development for the consolidation of peace, security and stability in the region as a whole.

The meeting rose at 6 p.m.

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Fifty-fifth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 24 March 1999, at 10 a.m.

Chairman: Mrs. ANDERSON (Ireland)

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The meeting was called to order at 10.05 a.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 5) (continued) (E/CN.4/1999/10, 11 and 123; E/CN.4/1999/NGO/32, 58 and 59)

1. Mr. BERNALES BALLESTEROS (Special Rapporteur on the question of mercenaries), introducing his report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1999/11), said that Africa was the continent most affected by mercenary activity. In Angola, for example, UNITA was ignoring peace agreements and re-arming with mercenary participation. Mercenaries were also present in the Republic of Congo, the Democratic Republic of Congo, Sierra Leone and other African countries.

2. It might have been supposed that the ending of certain armed conflicts, the signing of peace agreements, the formation of regional alliances and the various United Nations missions would have made it possible to end mercenary intervention. That had not been the case.

3. The events in Sierra Leone showed that a Government could not ensure peace and political stability through recourse to mercenaries. The peace achieved with the help of the Executive Outcomes security company was merely an illusion. A few months after the company had left the country, the Government of President Tejan Kabbah, which had hired it, had been overthrown by a Government connected with the Revolutionary United Front (RUF), which had committed all sorts of atrocities.

4. The deposed President had then signed a contract with Sandline International, which had exported to Sierra Leone helicopters and military equipment in breach of the embargo imposed by the Security Council. In March 1998, President Tejan Kabbah had regained power with the help of ECOMOG. The RUF forces had also hired mercenaries and in late 1998 had entered Freetown, where they had committed atrocities.

5. It thus appeared that the use of mercenaries by all sides had merely prolonged the conflict, and that the argument that there were "good" and "bad" mercenaries did not hold water. Hiring mercenaries was no substitute for maintaining a collective regional security system, and genuinely professional national armed forces and security forces loyal to the democratic legal order. The recruitment and financing of mercenaries were unacceptable under any circumstances, even when the aim was the restoration of a constitutional regime overthrown by force.

6. Armed conflicts, terrorism, arms trafficking, the inability of States to establish security in their territories, and violence connected with extremist ideologies and characterized by intolerance all encouraged the demand for mercenaries on the global market, and private military security companies took advantage of loopholes in international legislation on the subject.

7. To claim that mercenaries were more efficient than a regular army was a weak argument, and legally and ethically questionable. If such arguments were used as the grounds for praxis, States would reach a stage where they would

have to abolish or cut drastically their national armies and replace them with mercenaries to take charge of border control and maybe even the maintenance of law and order. That boded ill for the obligation on States to protect human rights, for it was clear that mercenaries committed atrocities and impeded the exercise of human rights.

8. It was unacceptable that private companies, even if their activities were legal when carried out in the civil or commercial sphere, should replace armies and police forces, undermine national sovereignty and the right of peoples to self-determination, and impede the exercise of human rights. In that connection, mention might be made of South Africa, which in 1968 had passed a law regulating military assistance abroad and limited the competence of private companies in that regard. He had carried out a mission to the United Kingdom, in the course of which he had been informed by the Government of measures it intended to take in order to solve that problem in global and legal terms. His next report to the General Assembly would be devoted to an analysis of that mission.

9. Many peoples were currently suffering as a result of mercenary activity. It was therefore imperative that the Commission on Human Rights should continue to consider that issue.

10. Mr. TCHOUMAREV (Russian Federation) considered that the concept of the "right of peoples to self-determination" needed clarifying. Current international law ruled out the absolute exercise of the right of peoples to self-determination where it would be to the detriment of other principles and norms. The fundamental principles contained in the Charter of the United Nations were linked and interdependent. Thus, the principle of the right of peoples to self-determination was inseparable from the principle of the territorial integrity of States. On that matter, he wished to draw the Commission's attention to the Declaration of the Principles of International Law of 1970 and the Vienna Declaration and Programme of Action of 1993, according to which the right of peoples to self-determination must not be read as authorizing or encouraging any measure liable to dismember States or compromise their territorial integrity or political unity. Any other conception of the principle and of the right to self-determination could only lead to separatism, aggressive nationalism and extremism, which, as was well known, constituted a threat to human rights and international stability. It was therefore important to defend the principle of the right of peoples to self-determination as a means of satisfying ethnic interests and ensuring the rights of individuals.

11. The Russian Federation was a multinational State. That State structure permitted the development of all the peoples in accordance with the constitutional principles of equal rights and self-determination, with due respect for the integrity of the State and the inviolability of the territory of the Federation. The legal framework for applying those principles was developing little by little. In particular, thanks to the law on national and cultural autonomy, all peoples, large and small, whether grouped together or scattered throughout the Federation, had the right to enjoy national and cultural autonomy.

12. The situation in the Middle East required careful scrutiny by the Commission. The realization of the Palestinian people's inalienable rights would not be damaging to the State of Israel; on the contrary, it would benefit Israel by improving its security and encouraging the establishment of good relations among the countries in the region. The Russian Federation, one of the sponsors of the peace process, earnestly wished to see Israeli-Palestinian dialogue continue on all the outstanding issues, in particular the building of Israeli settlements in the occupied Palestinian territories, access for followers of all faiths to the holy sites and the status of Jerusalem.

13. The political aspect of the right to self-determination should not overshadow the humanitarian aspect; hundreds of thousands of Palestinians were refugees or displaced. In that regard, the Russian Federation supported all humanitarian initiatives and all the efforts of the international community towards a peaceful settlement of the situation in the Middle East. In particular, it supported the Special Rapporteur's action on human rights in the Palestinian territories under Israeli occupation, and the actions of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) and of the International Committee of the Red Cross. Finally, it would be following closely the work of the meeting of the States parties to the fourth Geneva Convention on the situation in the occupied Palestinian territories due to take place in July.

14. Mr. WANG Min (China) said that, in accordance with the United Nations Charter, General Assembly resolution 1514 (XV), and the Vienna Declaration and Programme of Action, respect for the right to self-determination required, above all, opposition to any foreign aggression or interference, and safeguarding of national sovereignty, independence and territorial integrity, so that people of all countries could freely choose their own political and social systems and models of development. No country should impose its own ideology or social system on others. China was opposed to the practice of the strong bullying the weak and one country interfering in the internal affairs of others through political pressure or economic sanctions.

15. The right to self-determination must not be interpreted as authorizing or encouraging violations of the territorial integrity and political unity of sovereign and independent States. In recent years, some individuals had, under the pretext of promoting the principle of self-determination, advocated the dismemberment of sovereign States and wilfully trampled on the United Nations Charter and the basic principles of international law. Many developing countries had been the victims of such separatist activities, which the United Nations should firmly oppose.

16. The key to a global, just and lasting peace in the Middle East lay in restoring all the rights of the Palestinian people, including the right to self-determination. To that end, Israel and the Arab countries must negotiate earnestly and pragmatically on the basis of the relevant United Nations resolutions and the existing agreements between the parties and guided by the "land for peace" principle.

17. Ms. DE ARMAS GARCIA (Cuba) said that the right of any State to fully exercise its national sovereignty and the right of all peoples to self-determination without interference or foreign intervention were the pillars of the existing international legal order and of the United Nations.

18. While colonialism had disappeared, powerful States were attempting, on the basis of legally dubious theories, to impose on others foreign models which they presented as universal prototypes.

19. Globalization should not imply poverty, social inequality or the domination of the weaker countries by the stronger, but rather cooperation, peace, solidarity, ethics, and the right of peoples to self-determination with due respect for national sovereignty and independence.

20. As long as foreign domination and occupation continued, human rights would go unheeded. In that connection, Cuba would continue to demand the return of the territory containing the Guatanamo naval base, which was occupied illegally by the United States.

21. On the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, Cuba supported the detailed examinations carried out by the Special Rapporteur on that question, particularly concerning new types of mercenary activities and especially where they involved individuals attacking their country of origin with the help of a foreign Power. States must not tolerate the use of their territories for the recruitment, training, financing and use of mercenaries.

22. For nearly 40 years, Cuba had been the victim of mercenary activities encouraged and financed from the territory of the United States. Her Government therefore reserved the right to protect its citizens, its sovereignty and its independence, with all due transparency, as was recently demonstrated by the trial of two mercenaries found guilty of acts of terrorism in Cuba.

23. Mr. MORJANE (Tunisia) said that the situation in the Arab territories occupied by Israel had become explosive because of the policies of the occupation authorities, which were continuing to seize territory by force and to violate human rights. In Jerusalem, Israel was continuing its Judaization policy, destroying homes, expelling the inhabitants and altering the city's demographic composition, in flagrant violation of the international agreements to which Israel was a party, notably the fourth Geneva Convention of 1949 and the relevant resolutions of the Security Council and the General Assembly.

24. It should be remembered that the international community had always regarded Jerusalem as part of the occupied territories. Recently, the European Community had refused to recognize Jerusalem as the capital of Israel.

25. Israel was defying the resolutions of the General Assembly and was not fulfilling the obligations it had undertaken at the 1991 Madrid Conference, which were intended to lead to a just, global and lasting peace in the Middle East and to the creation of an independent Palestinian State with Jerusalem as its capital.

26. Tunisia, which had always striven for peace in the Middle East and for respect for the Palestinian people's right to self-determination, called on the Commission to continue its efforts to encourage Israel to fulfil its obligations and the relevant resolutions of the Security Council and the General Assembly.

27. Mrs. RUSTAM (Indonesia) was concerned to note that, while the Commission had been giving priority attention to the issue of human rights violations in the occupied Arab territories, including Palestine, since 1971, the situation had barely improved. The Oslo Accords had been signed six years previously. Currently, the peace process had reached deadlock as a consequence of the construction of Jewish settlements on the West Bank and the issue of the Palestinians' security obligations towards Israel. The Palestinians at present enjoyed total or partial autonomy in 27 per cent of the West Bank, but Israel continued to exert control over almost all the territory. The process was lagging considerably behind the original timetable, particularly in the matter of Israeli withdrawal from the West Bank, and trust between the two sides had been damaged. The peace process could move ahead only if the two sides accepted the Wye River initiatives and resumed negotiations.

28. She feared that a deterioration of the situation might again lead to an escalation of violence. It was important that the Commission should strongly request the Israeli Government to put an immediate end to human rights violations in the occupied territories. The United Nations should continue to demand the unconditional withdrawal of all Israeli forces from all occupied Palestinian and Arab territories, in accordance with Security Council resolutions 242 (1967), 338 (1973) and 425 (1978).

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

29. Mrs. OGATA (United Nations High Commissioner for Refugees) said that for several years there had been an intensification of human rights violations in the countries of origin of refugees and a noticeable decline in the level of protection and assistance to refugees and asylum-seekers in countries of asylum.

30. One had a sense of powerlessness in view of the extent of human rights violations in situations of conflict, and especially internal conflict, which pitched communities against each other and caused massive displacement of civilians.

31. In the Yugoslav province of Kosovo, the hopes raised by the first agreement between President Milosevic and Mr. Holbrooke and by the Rambouillet talks had been dashed. In the village of Racak 45 civilians had been summarily executed, shot at close range. She had twice asked President Milosevic to put a stop to the violence against civilians. She had also pointed out that Serbs living in the province were, to a more limited

extent, victims of violence by the Kosovo Liberation Army. Currently more than 260,000 persons were displaced within Kosovo. Under the imminent threat of NATO intervention, UNHCR had been forced to withdraw its staff. It hoped to be able to return as soon as possible and help the hundreds of thousands of displaced persons return home.

32. In Sierra Leone, rebels fighting a democratically-elected Government were summarily executing women and children, raping and mutilating women and young girls, and taking children from their parents for use as combatants.

33. In Indonesia, ethnic and religious violence was causing a risk of major population displacements.

34. Those tragic events illustrated the close relationship between human rights violations and increases in refugee flows. The issues debated by the Commission were concrete problems requiring urgent, concrete solutions. She wished to repeat once more that the work of the Commission on Human Rights was of great support to the work of her own Office. The success of UNHCR's humanitarian efforts depended heavily on the realization of internationally-agreed rights, especially those upheld by the International Covenant on Economic, Social and Cultural Rights.

35. In Kosovo, for instance, the population displacements resulted from massive violations of human rights and humanitarian law. Displaced persons who had been unable to cross the border needed protection and assistance as acutely as those who had crossed. Hence the requirement for concrete application of the Guiding Principles on Internal Displacement.

36. The purpose of humanitarian assistance was first of all to ensure the physical safety of displaced persons, but it must also allow them to live in dignity enjoying the rights to food, clothing, medical care, education and housing.

37. In Bosnia and Herzegovina, the implementation of the property provisions in the Dayton Peace Agreement remained problematic in cases where returnees wished to return to their homes. UNHCR recognized the value of a legal framework with equitable mechanisms to resolve difficult issues such as restitution or compensation.

38. In the example of Georgia, it had been found that restitution of real property and compensation for the loss of personal property were essential for the sustainable return of ethnic Ossetians. In practical terms, UNHCR was involved in projects to rebuild houses and to promote a legislative framework for claims to be resolved.

39. Her Office was particularly concerned about the issue of family reunification. It was essential for families to be able to stay together. While all States recognized the family as the natural and fundamental unit of society, asylum and immigration policies often did not allow for separated refugee families to be reunited. However, families that were reunited had greater resilience to overcome the hardships of displacement and exile and were less of a burden on the host society. A further priority for displaced families was to find a place of safety, away from conflict and persecution.

All too often, humanitarian assistance efforts had failed because of a lack of security. UNHCR attached great importance to the legal regime of asylum precisely because it placed clear responsibilities on States to protect refugees. Regrettably, the "escape route" of asylum was increasingly blocked.

40. Violations of family rights had serious consequences for children. Displaced children were deprived of the support of their families, schools and friends, and were particularly vulnerable to human rights abuses. The 1996 Graca Machel study had pointed out that children were no longer innocent bystanders in armed conflicts, but the victims of genocide, forced military recruitment, gender-related violence, torture and exploitation on a massive scale.

41. UNHCR policies and programmes were linked directly to the rights protected by the Convention on the Rights of the Child. In Liberia, for instance, emphasis had been placed on the right of children to education, and hence on the rebuilding of an education system shattered by seven years of conflict. That had two goals: education was a way to break the cycle of violence being passed down to future generations, and it encouraged families to return to Liberia.

42. She expressed her deep concern about violence against refugee women and girls. In 1989, UNHCR had launched a project to combat sexual violence for refugee communities in sub-Saharan Africa. A similar approach had been taken in the programmes for women returnees in Rwanda and Bosnia. By contrast, in Afghanistan, the Taliban's denial of women's basic rights to work and education was impeding the return and rehabilitation of more than 2 million refugees currently in Pakistan and Iran. That was the sort of issue on which the Commission could take a strong stand.

43. The activities of UNHCR were long-term and took place in countries often grappling with enormous political and economic problems. However, the limited resources should not be a reason for not making the effort; rather, it should serve as the rationale for joining forces in a common effort. Nonetheless, the conflicts in Bosnia and the Great Lakes region of Africa had shown that humanitarian action could not be a substitute for timely and firm action at the political level. Kosovo, for example, was a political problem with devastating humanitarian consequences, for which there was only a political solution.

44. Political support for humanitarian work was crucial, as was safe access to displaced persons. The Commission and the Office of the High Commissioner for Human Rights had a vital role to play in guaranteeing the effective exercise of the rights upheld by the conventions. Equally, they could publicly disclose and censure violators of human rights and help mobilize the political support needed for humanitarian efforts by UNHCR.

STATEMENT BY THE UNDER-SECRETARY FOR FOREIGN AFFAIRS OF MEXICO

45. Ms. MORENO DEL CUETO (Mexico) said that, in the context of globalization and global change, it was important for the Commission to strengthen and improve its methods of action. In Mexico, the Government was trying to implement the right to development, to reinforce democracy and to strengthen

human rights. The previous year had seen intense legislative activity and the modernization and updating of the internal legislative order on human rights. A federal law and a local law on the role of the Ombudsman had been promulgated. Following a suggestion by the National Commission on Human Rights, the possibility of classifying enforced or involuntary disappearance as an offence was under examination. In the previous six months, her Government had promulgated the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights, known as the "San Salvador Protocol", had deposited its instrument of ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, had accepted the binding jurisdiction of the Inter-American Court of Human Rights, and had deposited its instrument of ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. In addition, an effort had been made to strengthen the power of the judiciary and guarantee its true independence. The Government was also in constant dialogue with NGOs, whose number had grown from 5,000 in 1995 to 8,000 in 1998. It was pursuing a policy of open-mindedness towards foreign human rights activists. In the previous four years, 6,000 such activists had visited Chiapas, and only a small number, who had broken national law, had been asked to leave the country. Mexico had accepted the Declaration on Human Rights Defenders. In the National Development Plan for 1994-2000, the authorities had expressed their wish to consolidate the rule of law. In 1998, they had produced the National Programme for Public Security, intended to combat and eradicate impunity and crime. A national programme for the promotion and strengthening of human rights had also been established recently.

46. Mexico attached great importance to the realization of economic, social and cultural rights. It was to be noted in that connection that, despite the poor results in the global economy, the Mexican economy had acquitted itself rather well in 1998. Social spending had represented 9.1 per cent of GDP.

47. The Government was constantly concerned for the situation of indigenous peoples and had submitted to Parliament various proposals for legislative reform envisaging broader recognition of the rights of those peoples and their traditions and way of life. Regarding Chiapas, the authorities' strategy was based on three pillars: a legal pillar in the form of the restoration of the rule of law; a social pillar, treating the structural issues which underlay the conflict; and a political pillar, founded on dialogue and negotiation with the Zapatista National Liberation Army (EZLN). The results of the measures taken to improve the situation in Chiapas in the areas of education, health, agriculture and the fight against poverty were already becoming evident, though much remained to be done. The authorities attached great significance to the International Decade of the World's Indigenous People, supported unreservedly the creation of a permanent authority for indigenous peoples within the United Nations system, and hoped that a declaration on the rights of indigenous peoples would be adopted by the United Nations.

48. Almost every country in the world was now affected by the phenomenon of migration. It was estimated that approximately 130 million of the world's population were migrants, including 30 million unauthorized migrants. The Intergovernmental Group of Experts set up by the Commission recommended that a

mechanism should be set up to study human rights issues relating to migrants. On the basis of that Group's report, her delegation intended to submit a draft resolution which, it hoped, would be supported by all delegations.

49. Her Government was continuing its policy of cooperation with the Commission on Human Rights and its mechanisms. President Zedillo had already invited representatives of various regional and global human rights bodies to visit Mexico. The previous year, he had invited the High Commissioner, Ms. Mary Robinson, and the Special Rapporteur on the question of extrajudicial, summary or arbitrary executions. The Mexican Government intended to continue its work towards strengthening the rule of law and realizing economic, social and cultural rights.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF GABON

50. Mr. ZENG EBOME (Gabon) emphasized the importance attached by his country to freedom, a freedom whose function was to eliminate antagonism by safeguarding each person's sphere of action. Unfortunately, setting up a responsible society was more difficult than dominating people, and that was why human rights had been, and were still, flouted throughout the world. The northern hemisphere had had in the past, and had still, certain barbaric instincts, as did the southern; the forms did not differ greatly from one to the other. For that reason, all the countries of the world needed to embark resolutely on the road to a modernity in which human life would be protected and human dignity respected.

51. That was the road that Gabon had chosen. Following a spell in which a single party had held power, the country had moved towards political pluralism and, consequently, towards democracy. The Constitution of Gabon asserted the Gabonese people's commitment to human rights and to fundamental freedoms, the foundations of a State genuinely subject to the rule of law. The new Gabonese institutions, including the recently created National Commission on Human Rights, were all oriented towards democracy and towards ensuring respect for those rights and freedoms.

52. At the international level, Gabon had ratified the major covenants and conventions on human rights. That was an area in which Gabon was making steady progress, thanks notably to the perseverance and determination of its politicians, and, more particularly, to the clear-sightedness of the President of the Republic, His Excellency Mr. Omar Bongo.

53. In order to strengthen that process, his Government had recently concluded with the Office of the United Nations High Commissioner for Human Rights an agreement whose two major aims were the harmonization of national law with international norms and greater attention to legislation and regulations by the judicial and administrative authorities. In pursuance of the second aim, Gabonese public servants were to be given training directly relevant to the protection and promotion of human rights. In that connection, mass education was also expected to play a significant role. Finally, the desire for progress in that field had led to the establishment, on 26 January 1999, of a Ministry for Human Rights which he himself headed. His

Government recognized that it was the political authorities, above all, who were responsible for guaranteeing the effective enjoyment of human rights and fundamental freedoms.

54. It was important, however, to be realistic, and to acknowledge that citizens could genuinely exercise their human rights only after attaining a certain minimum standard of living and education. Hence a restructuring of economic relations between North and South, particularly through cancellation of the debt which was strangling the developing countries and especially those of Africa, would permit the emergence of free and responsible citizens. An act of solidarity by the affluent countries was thus a moral and economic necessity. It was time to move together towards realizing the human rights objectives set by the international community. The latter must bring its full weight to bear to put an end to all the armed conflicts which were lining the pockets of arms dealers in the North and stunting Africa's progress and development.

STATEMENT BY THE MINISTER FOR HUMAN RIGHTS OF IRELAND

55. Ms. O'DONNELL (Ireland), briefly summarizing recent events in Northern Ireland, observed that it was the denial of the civil and political rights of a large proportion of the local population which had sparked off the troubles in that region 30 years previously. The resulting paramilitary violence had for many years crowded out that community's legitimate grievances. The new peaceful context had enabled the signing, in 1998, of the Belfast Agreement, which finally emphasized the equality of all citizens in all fields - political, social and cultural. With the founding of new institutions for the protection of basic rights, the establishment of equality and the elimination of all discrimination, a new human rights landscape was finally emerging in the region.

56. It was with the direct and recent experience of conflict resolution on its own island that her delegation would associate itself with the statement to be delivered by the Presidency of the European Union under agenda item 9 concerning violations of human rights and fundamental freedoms throughout the world. No part of the globe was free from human rights abuses, but there were scales of abuse. It was essential to engage in real dialogue on those issues, attempting above all to find solutions and to make good use of the mechanisms made available to countries by the United Nations.

57. The preparations for the World Conference on Racism, part of the Commission's agenda, should be an occasion not for re-visiting the past, but for exploring modern-day racism and addressing issues such as globalization, new patterns of migration and the spread of Internet use.

58. Regarding the Convention on the Rights of the Child, she said that the Irish experience was a positive one, providing coherent standards and principles for child-care policy. Away from treaty texts, it should be remembered, however, that millions of children throughout the world went hungry, died of disease because of lack of medicines or drinking water, or were the victims of armed conflicts or sexual exploitation. Ending the unconscionable sexual trafficking in children required an urgent effort by the global community as it entered a new millennium.

59. Development cooperation efforts were the greatest and most practical vindication of human rights. Ireland had reaffirmed the importance it attached to the right to development through steady expansion of its overseas development aid programme in recent years.

60. During the current session, the Commission would be examining ways to make the Declaration on Human Rights Defenders, adopted by the United Nations General Assembly on 10 December 1998, into a fully effective instrument. There was no time to be lost. Within days of the approval of the draft Declaration by the Commission, a human rights defender had been killed in Colombia. Just one week before, another courageous human rights activist, Ms. Rosemary Nelson, had been murdered in Northern Ireland. In his report on the independence of judges and lawyers, Mr. Param Cumaraswamy, the Special Rapporteur, had drawn attention precisely to the harassment and intimidation of lawyers in Northern Ireland. The murder of Rosemary Nelson was a graphic testament to that problem. The Special Rapporteur had also dealt comprehensively with the murder 10 years previously of Patrick Finucane, another human rights lawyer defender whose family she (Ms. O'Donnell) had met in Dublin. She had received information alleging collusion by the security forces in that murder. That raised issues of fundamental concern to the Commission, namely the protection of human rights and the rule of law. It was absolutely essential that the murders of Mr. Finucane and Ms. Nelson should be the subjects of fully independent inquiries.

61. In conclusion, she expressed her pleasure at the fact that the international community had at its disposal a full legal framework to guide it as it entered the new century. She urged those participating in the Commission on Human Rights and all other regional and international forums to become ambassadors, not merely of countries but of the "Republic of Conscience", to quote Ireland's Nobel Laureate, Seamus Heaney.

STATEMENT BY THE VICE-PRESIDENT OF THE COUNCIL OF STATE AND SECRETARY OF THE COUNCIL OF MINISTERS OF CUBA

62. Mr. LAGE DAVILA (Cuba) observed that the extremely rigid time limits imposed by the Chairman on speakers addressing the Commission were of benefit only to the super-Power interested in preventing the truth from being heard in that forum. That super-Power had assumed, apparently for life, the role of prosecutor in the public trial of Cuba and supreme judge of human rights at the global level. How could the United States be allowed to judge the behaviour of all the countries of the world, itself excepted, when in fact it represented a far from outstanding example? In the richest and most powerful nation in history there were almost a million homeless and millions without medical insurance or excluded from social programmes; most of the 45 million poor people in the United States were Hispanic, black or children. The United States was also the world's largest consumer of drugs, had the world's largest prison population, and frequently carried out the death penalty, particularly against Blacks, Hispanics and third-world immigrants.

63. More than 100 political prisoners, including Puerto Ricans struggling for their country's independence, were imprisoned in high-security facilities in the United States, while the Government tolerated neo-fascist and xenophobic groups which incited discrimination and perpetrated large-scale

violence. And besides having created the most lethal weapons of extermination, the United States made the least contribution of any industrialized country to development and owed the most to the United Nations.

64. The country which had invaded Santo Domingo, Grenada, Panama and Somalia, participated in a dirty war in Central America and supported the bloodiest Latin American dictatorships now claimed the right to judge the world. It was that same country which had decided to wage war for its own ends and was preparing, through NATO, to launch brutal attacks on Serbia, a country whose people had heroically fought the Nazi hordes in the Second World War. Who would defend the rights of the innocent who would perish under the missiles and bombs dropped on that small European country? If the world were to convene as a court, the United States would be constantly in the dock.

65. Since 1992, the United States had been stepping up intimidatory measures against all those wishing to enter into commercial or other relations with Cuba. At the same time, with the single aim of undermining the strong and constantly growing movement of solidarity with Cuba, there was talk of a so-called relaxation of its policy on the latter. Nothing could be further from reality. The United States was pursuing its criminal, ridiculous and futile policy aimed at overthrowing the Cuban regime. It was often asked why the United States did not put a stop to that stubborn policy and turn the page on that sordid episode. The answer was to be found in the corrupt American political system and in obscure political interests which had the upper hand over those most basic of moral principles which a country wishing to set itself up as a model should never abandon.

66. It was also worth asking why the blockade which Cuba had suffered for 40 years and which constituted veritable genocide had not been examined by the Commission on Human Rights. One sometimes had the impression that United Nations censure was directed primarily at underdeveloped countries.

67. However, Cuba had a weapon which had earned it respect, even from its enemies, and that was truth. It was because of truth that 19 States members of the Commission had rejected the resolution targeted at Cuba. However, those enemies were not ready to be defeated, and they had found a traitor prepared to accuse Cuba of numerous vile deeds which many representatives in the Commission would find it hard to believe. The world knew that, despite the problems and the poverty, Cuba had managed to provide its people with the most basic social services, and that Cuba had no racial discrimination, torture, forced disappearance, death squads or summary executions.

68. Moreover, Cuba's commitment to human rights was evident outside Cuban territory also. Cuban doctors were carrying out missions in the furthest reaches of the world, and more than 14,000 child victims of the Chernobyl disaster were being cared for in Cuba. Likewise, many young Namibian survivors of the Kasinga massacre had found a home and an education in Cuba. While other countries had traded with the racist regime in South Africa, Cubans had generously shed their blood for South African independence.

69. In conclusion, he asked whether those who claimed the right to judge Cuba could say as much for themselves.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1999/2 and 109; E/CN.4/1998/CRP.4)

70. Mr. HOYNK (Germany), speaking on behalf of the European Union, said that the principle of responsibility which must guide the work of the fifty-fifth session required the process of revision of the Commission's mechanisms, which played a crucial role in the protection and promotion of human rights, to be set in motion without further delay. In that connection, the proposals to postpone to the end of the session the substantive discussion on the report (E/CN.4/1999/104) on that issue by the Bureau of the fifty-fourth session were not acceptable. However, the European Union did not want a quick fix, but rather an incremental process involving all the delegations. Cooperation was the working method preferred in the Commission, even on difficult issues which could give rise to disagreement on substantive points. Setting the process in motion simply required delegations to demonstrate a constructive attitude, making it possible to achieve results acceptable to the largest possible number. Making all decisions subject to consensus, as had been proposed, would mean giving one or two delegations a de facto right of veto and would not reflect a responsible attitude towards human rights. The European Union therefore suggested that informal consultations should be organized as soon as possible on those recommendations which could be adopted by general consent during the fifty-fifth session, and that the framework for further work on other recommendations be decided by the end of the session. The results of that informal dialogue would be subject to decisions taken under agenda item 20. The European Union was aware that the success of that process depended on trust among delegations, and would do its best to strengthen that trust.

71. Mr. BENITEZ (Argentina) noted that the report in question was the fruit of totally transparent and open dialogue among all the members of the Commission, other interested States and NGOs. It was now a question of gaining the maximum benefit from the progress made by putting into practice the recommendations made by the Bureau of the fifty-fourth session. His delegation acknowledged the systematic character of the reforms to be made, which required an overall view of the process at each stage. However, the existence of interdependent links among the mechanisms of the Commission did not obviate the separate examination of the various chapters of the report and finding that not all of the Bureau's conclusions attracted the same general agreement. Hence, the Commission should at the currrent session examine the recommendations on which the Bureau had considered agreement possible and, in parallel, move towards setting up an intersessional mechanism to pursue the consideration of less consensual questions. It would be disappointing if the Commission itself were not able to enjoy the first fruits of the reform process. For that reason his delegation invited the Chairman to set up an informal process of consultations which would allow the Commission to adopt the first decisions on the review of its mechanisms. Like numerous other delegations, his own delegation hoped that many proposals would meet with consensus, in accordance with the Commission's tradition. Nevertheless, it was important to remember that consensus was an ideal to be striven for, not a rule for the functioning of the Commission.

72. Mr. SKOGMO (Norway), speaking on behalf of the Western Human Rights Group, noted that there seemed to be broad agreement on the need to review the Commission's mechanisms in order to improve effectiveness. The responsibility emphasized by the Chairman in her opening speech required that the reform momentum generated by the Bureau report should not be lost. To that end, it would be appropriate, before reaching a decision on the establishment of an intersessional working group, to examine how the question should be dealt with during the current session. It would be unfortunate if the Commission could not itself find the time to debate proposals which could improve its efficiency. It was true, delegations had a busy programme, but they could put the presence of their experts to good use. For that reason, the Group urged the Chairman to initiate as soon as possible a process of consultations on both the procedural questions and the substantive questions raised by the report.

73. Mr. LARRE (Chile) said that he, too, was in favour of immediately beginning informal, open and transparent consultations so that the substance of the proposals by the Bureau could be discussed. In addition, he suggested that a group of Friends of the Chairman should be set up for the sole purpose of considering procedural questions. Certain of the Bureau's recommendations were easy to adopt, and should be adopted at the current session in order to make the most of the momentum generated; others were more complicated and required more detailed debate, possibly in an intersessional working group. In any event, it was important to act without delay, for a review of the Commission's mechanisms was urgently needed.

74. Ms. GERVAIS-VIDRICAIRE (Canada), speaking also on behalf of Australia and New Zealand, expressed support for the Norwegian statement made on behalf of the Western Group. It was essential that at the current session the Commission should achieve concrete results on the reform of its mechanisms. It would be very disappointing if the only measure taken towards streamlining the work of the mechanisms was simply the creation of another one. It was clear that delegations had already focused considerable attention on the issues raised in the report and were now in a position to take decisions. The questions involved were not technically complex, but did require a degree of political commitment. An open and constructive debate should begin without delay, and after that the more difficult issues would become clearer. The setting-up of an intersessional working group should not be a starting-point, but rather an option to be considered later if necessary. Referring those issues to some intersessional mechanism at the present stage would do nothing to strengthen the mechanisms of the Commission.

75. Mr. NENE (South Africa) considered that it would be pre-emptive to establish an intersessional mechanism prior to any debate in the Commission, since that would reduce the openness and transparency of deliberations and might marginalize NGOs and those countries, including some African countries, which had no permanent mission in Geneva. His delegation supported the proposal to set up a group of Friends of the Chairman.

76. Mr. BAUMANIS (Latvia), speaking also on behalf of Armenia, Bulgaria, the Czech Republic, Georgia, Lithuania, Poland, Romania, Slovakia and Slovenia, proposed that, on the basis of the opinions already expressed on the subject, an open forum should be established for the discussion of the report of the

Bureau at the current session. Given the interrelated nature of the reform proposals, the approach could be chapter by chapter. The results of that informal dialogue would be considered under agenda item 20. The consideration of those issues by an intersessional working group, besides reducing participation in practice, could lead to delays in the necessary reforms and damage the credibility of the Commission.

77. Ms. GLOVER (United Kingdom) supported the statements of the German and Norwegian representatives; the delicate nature of the question should not be an excuse for inaction. Dialogue in the Commission was not only possible but necessary. Numerous delegations had studied the report in detail and were prepared to consider ways of improving the Commission's mechanisms, without allowing that discussion to prejudice the other items on the agenda. The establishment of a transparent dialogue open to everyone would be a step in the right direction.

78. Ms. RUBIN (United States of America) said that the Bureau's report, while far from perfect, should be considered at the current session. That report, the result of broad consultations, had been available for several months, so that delegations had had time to study it and make detailed comments. If they worked together in an open and transparent manner, they would undoubtedly be able to reach agreement on several of the recommendations, though amendments and revisions might be necessary. The proposals to refer consideration of the report to an intersessional working group suggested that the Commission did not have confidence in its own ability to take speedy decisions on the important matters before it. It would be ironic if efforts to streamline the Commission's work and reduce the number of mechanisms led to the creation of another mechanism.

The meeting rose at 1 p.m.

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Fifty-fifth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 29 March 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 10.05 a.m.

STATEMENT BY THE VICE-MINISTER FOR FOREIGN AFFAIRS AND COOPERATION OF MOZAMBIQUE

1. Ms. RODRIGUES (Mozambique) said that the continuing violations of human rights in many parts of the world demonstrated that the universality of human rights was still not accepted by all. Her country remained determined to take bold steps to strengthen democracy, good governance and the rule of law. It was in that spirit that the second general elections, to be held in October 1999, were being prepared. By strengthening national and local human rights institutions and organizations, her country was undertaking a national human rights education campaign from the standpoint of prevention. Human rights had thus been introduced in school curricula at various levels. The President of Mozambique had stressed that the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights afforded a unique opportunity to protect and promote those rights, and that that responsibility lay primarily with the State. The Parliament was currently revising the Constitution to give a new dimension to rights, obligations and fundamental freedoms. While healing the wounds of war, Mozambican society was endeavouring to establish a culture of peace, reconciliation, solidarity and tolerance.

2. Her Government upheld the universality of civil, political, economic, social and cultural rights, including the right to development, and therefore subscribed to the objectives of the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128. It was in that spirit that the Government had drawn up a five-year plan which had combating poverty as one of its priorities. The plan sought to promote social equality by improving health services and access to education, promoting employment and providing multifaceted support for the most vulnerable social groups, including women and children. International trafficking in women and girls was also a source of concern to her Government, which appealed to the Commission for assistance in ending that phenomenon.

3. Efforts were currently under way to provide the judicial system with more qualified personnel and additional resources. The Government was also undertaking a survey in all prisons to determine, inter alia, the number of persons who had been held in preventive detention for longer than the legally prescribed period, imprisoned without a trial or illegally detained, with a view to taking appropriate decisions.

4. Her country had often denounced xenophobia, terrorism and oppression in various international forums. At the regional level, it would work for conflict prevention and resolution through the Second Southern Africa International Dialogue on Smart Partnership. Mozambique, which continued to be confronted with the increasing threat of anti-personnel landmines, had ratified the Ottawa Convention on the Prohibition on the Use Stockpiling, Production, Transfer of Anti-personnel Mines and on their Destruction. From 3 to 7 May 1999, the country would have the honour of hosting the first meeting of the States parties to that Convention, which should lead to

a strengthening of international cooperation and assistance to address that problem. A meeting on the question of children soldiers would also be held at Maputo.

5. The current session was the last in which Mozambique would participate as a member of the Commission. It would, however, continue to work closely with the Office of the High Commissioner for Human Rights and pursue the ideals of the Universal Declaration of Human Rights so that future generations might live in peace and dignity.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS AND TRADE OF THE REPUBLIC OF KOREA

6. Mr. HONG Seok-hyong (Republic of Korea) said that since the establishment of their Government in 1948, the same year that the Universal Declaration of Human Rights had been adopted, the people of the Republic of Korea had continued, against difficult odds, to believe in democracy and human rights, which had become a major concern of the international community. The universality, indivisibility and interdependence of those rights must be recognized. Unfortunately, in many parts of the world, blatant and systematic violations of human rights continued in disregard of law, spirituality or religion, and there were still totalitarian regimes that suppressed basic rights and fundamental freedoms.

7. All human rights, whether they could only be promoted, civil and political rights that had long preceded most economic, social and cultural rights, particularly the right to development, ought to be guaranteed at the same time that democracy and good governance were strengthened. Economic success without the concomitant achievement of human rights could not be sustained. The Korean people knew that from bitter experience. That was why the policies of the Republic of Korea were carefully built on the principle of democracy and the market economy.

8. During the past 50 years, the champions of human rights had advanced the cause of human rights. Presently, the mechanisms of the United Nations for the protection of human rights must be strengthened further. For the part, the Commission ought to be able to address its attention on the basis of the valuable document prepared by the Bureau of the Commission at the fifty-fourth session under the leadership of the Chairman. Active activities of the non-governmental organizations (NGOs) and individuals who had stood up and fought for human rights and fundamental freedoms were worthy of commendation.

9. As the Secretary-General of the United Nations had noted, "Today's human rights violations are the causes of tomorrow's conflicts". The struggle against poverty, oppression and injustice must be intensified and all States must be encouraged to ratify the six core human rights treaties within the next five years, a goal set by the High Commissioner for Human Rights. In addition, special measures must be taken to protect the rights of vulnerable groups such as the disabled, minorities, refugees, women and children. It was reliably reported that in the Democratic People's Republic of Korea many people, particularly children, suffered from hunger and malnutrition.

The international community must help solve that problem. However, the authorities of that country must also take all possible measures to ensure that the people enjoyed a minimum standard of living.

11. The Republic of Korea had taken a series of steps to strengthen the exercise of human rights. A National Human Rights Commission had been established and a tripartite commission of labour, management and Government had been created. It had become legal for teachers to form trade unions. Legislation to combat discrimination based on gender had been strengthened and provisions to the benefit children and the elderly had been expanded. In the light of the views expressed by the Human Rights Committee, some provisions of the National Security Law relating to freedom of expression were to be amended.

12. Lastly, he wished to draw the Commission's attention to the plight of ex-military Koreans on the Korean Peninsula who had been separated from their families for half a century. That problem could be resolved only with the cooperation of the authorities of the Democratic People's Republic of Korea and the support of the international community. In that connection, his Government was willing to authorize the repatriation to the Democratic People's Republic of Korea of agents from that country who had recently been released under a special amnesty. The authorities of the Democratic People's Republic of Korea should reciprocate by returning to their families persons who had been abducted and other persons of South Korean origin who had been held in the North against their will.

13. His country would continue to strive for the realization of all human rights for all.

Statement by the ATTORNEY-GENERAL, MINISTER OF JUSTICE, HUMAN RIGHTS AND PARLIAMENTARY AFFAIRS AND MINISTER OF LABOUR AND INDUSTRIAL RELATIONS OF MAURITIUS

14. Mr. SEEBAROC (Mauritius) said that every region of the world was dealing with a disturbing resurgence of intolerance which had provoked savage conflicts and numerous violations of human rights. He welcomed the decision of the General Assembly to convene a World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001.

15. Mauritius was a multi-ethnic, multicultural and multireligious country that had largely succeeded in building a society based on tolerance, equality and social justice. It was a unique example of unity in diversity.

16. His Government was convinced that human rights and economic progress were complementary and that social peace and political stability were the two fundamental elements of development. However, groups of individuals systematically attacked institutions without any valid reason and the press sometimes published unfounded reports that tarnished a country's image. In such situations, sensationalism should not prevail over objectivity. In that connection, his Government had taken steps to strengthen the civil and political rights of Mauritian citizens.

17. The Supreme Court was actively protecting the rights of the individual. The Constitution guaranteed all the fundamental rights set out in the European

Convention for the Protection of Human Rights and Fundamental Freedoms. NGOs were also actively involved in the promotion and protection of human rights in Mauritius. Furthermore, in 1998 the Parliament had passed a law creating the National Human Rights Commission, which was authorized to investigate complaints by individuals of violations of fundamental rights by public officials, particularly members of the police force. In 1997, the Government had established a Presidential Commission which had made recommendations on ways of safeguarding the independence, impartiality and efficiency of the judiciary. Those recommendations had been duly reflected in a bill on the administration of justice which the Government had submitted to the Legislative Assembly. Moreover, the Prime Minister had announced the forthcoming enactment of an equal opportunities act. A human rights unit had also been established within the Ministry of Justice.

17. Mauritius had ratified the core human rights instruments and had sent high-level delegations to present the country's reports to treaty bodies, signifying the importance it attached to human rights. Several distinguished Mauritian justices had served or were serving on such human rights bodies as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

18. At the regional level, Mauritius had hosted the twentieth session of the African Commission on Human and Peoples' Rights in 1996 and would host the first ministerial meeting of the Organization of African Unity (OAU) devoted to human rights. Mauritius had also participated in the peace initiatives undertaken by OAU in Rwanda and Burundi and had helped monitor elections in various African countries. Mauritius had also undertaken conciliation between the warring factions in the Comoros.

19. His Government believed that the best way to protect and promote human rights was through a strengthening of multilateralism and the international legal system. He recalled in that connection that Mauritius had been the first country to sign the Statute of the International Criminal Court in Rome.

STATEMENT BY THE MINISTER OF EDUCATION OF TUNISIA

20. Mr. ZOUARI (Tunisia) said that the fiftieth anniversary of the Universal Declaration of Human Rights had been celebrated in Tunisia with a national programme under the patronage of the President of the Republic and it had comprised numerous events. Commitment to human rights should not be limited to occasional celebrations, however. Ongoing and sustained efforts must be made to ensure the realization of the principles set forth in international human rights instruments and to combat constantly the injustice, oppression and marginalization from which many people suffered, chiefly as a result of the economic imbalances occasioned by globalization, and human rights violations which were largely the result of civil wars or foreign occupation. His country believed that the right of peoples was an integral part of human rights and therefore supported the struggle of the Palestinian people to recover its land and its right to freedom and dignity. His delegation was deeply disturbed by the deadlock in the Middle East peace process and by Israel's refusal to honour its international commitments.

21. Tunisia's accession to international human rights instruments had led to political, legal and social reforms which had strengthened fundamental freedoms and allowed all citizens without exception to enjoy their economic, social and cultural rights. Since the Change of 7 November 1997, far-reaching structural reforms had been instituted under the leadership of President Ben Ali. Those reforms had made it possible to establish political pluralism, create a climate in which an active civil society could be built and promote education in tolerance, solidarity and mutual assistance; essential measures had also been taken to protect families. Women's status had improved significantly since independence; specifically, women were better represented in professional fields and in leadership positions. The State's efforts in the educational and social spheres had also been productive. The school enrolment rate for children (girls and boys) had surpassed 98 per cent, some 80 per cent of all Tunisians owned their own homes, and the poverty rate, which had stood at more than 50 per cent at independence, had dropped by roughly 6 per cent.

22. The social model Tunisia had chosen was based on respect for human rights in all their aspects within a framework of democracy which called for the building of a society that balanced the rights and duties of each individual without favouring any one right over the others. The educational system had undergone a major reform with a view to ending all forms of extremism and delinquency. The educational and pedagogical measures taken by the Tunisian authorities to achieve the requisite objectives included the establishment of a National Human Rights Education Commission, the development of a masters degree in civic education, the enactment of a child welfare code and a revision of school curricula. Human rights education must seek to ensure that respect for human rights became second nature, thereby guaranteeing social cohesion around values of tolerance and justice.

23. In addition to those actions in the social and educational fields, the Tunisian State had endeavoured to protect the rights of the most disadvantaged groups of the population. To that end, it had established a number of mechanisms and projects such as the 26-26 Solidarity Fund and the Tunisian Solidarity Bank. As part of the ongoing political and constitutional reforms the country had taken a number of steps, including amendment of article 75 of the Constitution with a view to making opinions of the Constitutional Council binding on the executive, legislative and judicial branches of government; amendment of the Electoral Code to allow the opposition to hold at least 20 per cent of all seats in Parliament in the 1999 elections and in the municipal councils during the municipal elections to be held in 2000; reduction of police custody from 10 days to three, with only one extension possible; the need to inform persons in police custody of their rights; confirmation of the right of appeal to a higher court in criminal matters; and amendment of the Criminal Code to include the definition of torture used in the United Nations Convention against Torture, to which Tunisia had become a party without reservation.

24. The fact that human rights came into play in so many different situations meant that each situation should be evaluated objectively and humbly. No one had the right to claim to have achieved perfection as to act

as a judge or teacher. Tunisia welcomed the report on the review of the Commission's machinery, but believed that, owing to the importance of the topic, any decision should be preceded by greater study.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1999/2 and 109; E/CN.4/1998/CRP.4)

25. The CHAIRPERSON invited all members of the Commission who wished to do so to comment on the draft timetable for the fifty-fifth session contained in the annex to the order of the day for Tuesday, 23 March 1999.

26. Mr. ALFONSO MARTÍNEZ (Cuba) said it was unfortunate that the consideration of agenda item 3, which had always been of considerable importance in the work of the Commission, was not mentioned in the programme of the present meeting, which might result in some disagreement. In the interest of the smooth functioning of the Commission, he requested the secretariat to ensure in future that all items which were scheduled to be considered should be included in the relevant order of the day.

27. With regard to the timetable itself, his delegation was pleased to note that two of its proposals on holding an additional meeting of the Working Group to draft proposals for the World Conference against Racism, Racial Discrimination, Xenophobia and other Forms of Intolerance and another on a plenary meeting on agenda item 10 had been included. It regretted, however, that its proposal to postpone consideration of agenda item 9 to the last week of the session had not been accepted. The questions considered under that item, which were often the most controversial, could lead to confrontations that might well have an adverse effect on the consideration of other items. Since the timetable proposed by the Bureau could be modified in accordance with circumstances, his delegation was not opposed to adopting it as it stood. However, it should be reflected in the summary record of the meeting that his delegation would prefer to postpone consideration of agenda item 9, which experience had shown could have deleterious effects, to the end of the session. His delegation was also concerned that the timetable was very full, a situation that could hamper the effectiveness of the debates.

28. Mr. GROOMS (Norway), supported by Mr. HÖYNCK (Germany), recalled that the Commission had itself decided the previous year to consider agenda items in order and said that the timetable proposed by the Bureau was a balanced document which reflected a satisfactory compromise between the wishes of delegations that were sometimes hard to reconcile. He called upon Commission members to take a decision on the timetable promptly, so that delegations might have enough time to make preparations.

29. Mr. SINGH (India) said he supported the request by the representative of Cuba to have item 3 included in the order of the day for the relevant meetings; otherwise, delegations might miss important statements. Apart from that, his delegation could accept the timetable proposed by the secretariat.

30. Mr. WANG Min (China) said he unreservedly endorsed the remarks made by the representatives of Cuba and India with regard to item 3. He also agreed with the representative of Cuba that by considering agenda item 9 in the second week of the session, the Commission ran the risk that a confrontational

atmosphere might develop that would have an adverse effect on the Commission's work, although it would in fact be technically difficult to move the item at the present stage. It would be preferable for the timetable to be adopted as soon as possible.

31. Mr. KREID (Austria) said he shared that view and called on delegations to spare no effort to prevent pointless confrontations when they arose.

32. The CHAIRPERSON recalled that consideration of item 3 had traditionally been left open and that it was not the practice to include it systematically in the order of the day. She agreed, however, that it would be useful to do so, either by indicating the list of speakers for that item - if it existed - or by adding a simple note. It was in the interest of the efficiency of the Commission's work for a decision to be taken as soon as possible on the timetable proposed by the secretariat. Accordingly, if she heard no objection, she would take it that the timetable was adopted.

33. It was so decided.

34. Mr. HAYES (Ireland) associated himself with the statement made by the representative of Germany on behalf of the European Union and by the representative of Norway on behalf of the Group of Western European and other States concerning the report of the Bureau of the fifty-fourth session on the rationalization of the Commission's work (E/CN.4/1999/104). He was pleased that the Commission had decided to review those mechanisms and procedures to enhance the effectiveness of its work. The report in question contained a wealth of proposals and suggestions which the Commission ought to take up without delay, in other words during the current session. His delegation would participate in that exercise in a constructive spirit and hoped that all delegations would do likewise so that work could move ahead rapidly.

35. Mr. CALLEJOS CHIRIBOGA (Ecuador) said that the report of the Bureau of the fifty-fourth session did deserve to be considered at once. His delegation would support the holding of informal consultations with a view to reaching agreement on that question. It could also support the proposal to have all decisions on the matter taken by consensus, provided that did not allow some delegations to exercise a veto.

36. Mr. KREID (Austria) said that the report on the rationalization of the Commission's work had been issued sufficiently in advance to enable all delegations to study it at length; hence there was no reason to take up the question at the present session. Obviously the reform process contemplated must be undertaken and that process would take time, but that did not mean it should be postponed. His delegation believed that the ideas put forward by the Chairperson as to how to proceed in considering that question were quite practical and should be followed. He therefore called on other delegations to begin that task right away so that, by the end of the session, the Commission could have a clearer idea of what it should do.

37. Ms. IZQUIERDO (Uruguay) agreed that the Commission must work in a constructive spirit to reach consensus on measures to enhance the effectiveness of its work and improve its mechanisms. It would certainly be useful to hold informal consultations under the leadership of the Chairperson

during additional meetings for which interpretation services would be provided. Such exchanges of views would enable all delegations to find ideas in common, to keep their positions flexible and to study the Commission's mechanisms without committing themselves to a specific outcome.

38. Mr. PADILLA MENENDEZ (Guatamala) commended the members of the Bureau and the Chairman of the fifty-fourth session for their report on the rationalization of the Commission's work. Commission members should agree on the procedure to be followed in reviewing the recommendations contained in the report and taking the necessary decisions. His delegation supported the suggestion by the Chairperson that informal consultations should be held during additional meetings. As the representative of South Africa had suggested, a group of "friends of the Chair" could sum up such informal discussions and report on them to the Commission in plenary when the relevant agenda item came to be considered.

39. His delegation believed it would be preferable to adopt decisions by consensus, but did not think that that rule should be compulsory, since it would be impossible to take decisions if there was any disagreement. His delegation would do everything possible to ensure that work on the rationalization of the Commission's mechanisms was successful.

40. Mr. MORENO (Italy) said that the proposals concerning improvement of the Commission's mechanisms were of crucial importance to the future work of the Commission in the area of human rights. They had already been the subject of thorough exchanges of view, and hence there was no reason to consider them in plenary. It would be unacceptable to postpone a decision on those proposals by sending them to an inter-sessional working group. Everyone realized it was necessary to improve the functioning and enhance the effectiveness of the Commission. The Commission should therefore take advantage of the work done by the Bureau and take a decision without delay; if necessary, it could revert later to areas on which there was disagreement.

41. Mr. AKRAM (Pakistan) said the important thing was to avoid any polarization over the report of the Bureau of the fifty-fourth session and any politicization of the debate on that question. The topic elicited divergent views. Some had to do with the very substance of the proposals submitted. Others were the product of a lack of mutual trust between members. It was important, therefore, to build up that confidence in two ways. First of all, it must be determined that there was no intention of having unacceptable proposals adopted by a majority vote, which was why consensus had been suggested as the basis for work. All working groups took their decisions by consensus, and the Commission should also operate that way in the case of the report under consideration. There was, however, a difference between consensus and unanimity, and consensus had never been a way for a delegation to use its veto.

42. Furthermore, there had never been any question of failing to take the content of the report prepared by the Bureau of the fifty-fourth session into account. It was surely necessary to study it in depth, but it was also obvious that there would not be enough time to do so at the present session. That was why a group of delegations had proposed the establishment of an open-ended inter-sessional working group to harmonize all positions. It was

surprising that that solution had been rejected on the pretext that small countries were not represented at Geneva and would therefore be unable to participate in the working group; that argument had never been put forward and other inter-sessional working groups had been established. Indeed, an allocation under the United Nations budget could be requested so that representatives of small countries could take part in meetings of the Working Group.

43. The CHAIRPERSON said that all the remarks made on the question were very useful, but she feared the Commission would end up devoting a good deal of its already limited time to that question. She would do her best to come up with new suggestions that she hoped would be of assistance to delegations.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 5) (continued) (E/CN.4/1999/10, 11 and 123; E/CN.4/1999/NGO/32, 58 and 59)

44. Mr. AL MANA (Qatar) expressed his country's deep concern at the grave continued violations of human rights in the occupied Arab territories, including Palestine, where the continued occupation was in itself a violation of the right to self-determination, as the Special Rapporteur on the situation of human rights in the occupied Arab territories had confirmed in his report (E/CN.4/1999/24). Qatar was particularly concerned about the colonization and confiscation policy pursued by Israel with a view to changing the demographic composition of Jerusalem. Those unacceptable practices had destroyed hopes of a lasting peace in the territories. That sorry situation was the fatal result of the Israeli Government's intransigence and failure to respect the basis on which the peace process had been built, namely the principle of land for peace and Security Council resolutions 242 (1967) and 338 (1973). Rather than continue to flout human rights and the international community, the Israeli Government should realize that peace could be achieved only on the basis of respect for international law. There could be no peace as long as the Palestinian people was unable to enjoy its legitimate rights, the most important being the right to establish an independent State with Jerusalem as its capital.

45. Mr. NSEIR (Observer for the Syrian Arab Republic) said that the right to self-determination was an inalienable right deriving from the Charter of the United Nations and a whole series of international instruments. Yet Israel denied the Palestinian people that right by using the worst forms of violence and destruction, as was regularly reported in the media. It had to be acknowledged that all peoples who had struggled for independence had achieved their ends with the exception of the Palestinians, who had been struggling for more than half a century with the support of the international community against Israel's expansionist and aggressive ideology. The exercise by that people of its right to self-determination, which must entail the creation of an independent State, was long overdue.

46. The Syrian Arab Republic had been one of the first countries to support, particularly within the Special Committee on Decolonization, efforts by countries to secure independence. In doing so, it had always sought to draw a distinction between legitimate struggles for self-determination and terrorism, which it rejected and condemned.

47. Mr. LEMINE (Observer for Mauritania) pointed out that the right of peoples to self-determination was a prerequisite for the exercise of all human rights, since colonial or foreign domination was incompatible with the exercise of those rights. While the legal texts setting forth that right had helped the overwhelming majority of States currently Members of the United Nations to gain independence, that had not been the case with the Palestinian people, which had been deprived of its legitimate rights and driven from its territory at the time the wind of decolonization had begun stirring throughout the world. Nearly 50 years later, that injustice had yet to be rectified, despite the resolutions adopted by various United Nations bodies, including the Commission on Human Rights, and in particular General Assembly resolution 181 (II), which provided for the partition of Palestine into two States and separate legal status for the Holy City of Al Quds.

48. The Commission, which was the international community's living conscience, had continued to denounce Israeli occupation and to call for a just and lasting solution. The peace process begun in Oslo had created the hope that such a solution was at hand, but three months before the end of the agreed transitional period it must be acknowledged that there was still a long way to go. The responsibility for that deadlock in the peace process, with all the suffering it entailed for the Palestinian people, lay with Israel. That country must abide by international law and realize that there could be no lasting peace in the Middle East without withdrawal from all occupied territories, including the Holy City of Al Quds, and the establishment by the Palestinian people of an independent State on its own land. The international community and the two sponsors of the peace process in particular must redouble their efforts to ensure respect for international law in that sensitive region and create conditions conducive to a peaceful, comprehensive, just and lasting settlement that guaranteed the Palestinian people its legitimate rights and allowed all other peoples of the region to live in peace and security.

49. Mr. MADANAT (Observer for Jordan) said that for many long decades Israel had deprived the Palestinian people of its right to self-determination, which was set out in the Charter of the United Nations. Israel also flagrantly violated the fourth Geneva Convention, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the principles set out in the Vienna Declaration and Programme of Action.

50. Throughout those tragic decades, Jordan had left no stone unturned in the search for a peace in the Middle East that would guarantee the right of the Palestinian people to self-determination. The peace process that had started in Madrid in 1991 and had inspired in Palestinians, Jordanians and Arabs the hope that peace would become a reality in the region on the basis of the self-determination of the Palestinians, in accordance with Security Council resolutions 242 (1967) and 338 (1973) and the principle of land for peace, had suffered many setbacks in recent years. While some might attribute that situation to the violence and hatred that some extremist elements tried to impose on the region, the Israeli Government bore much of the responsibility because of its reluctance to take the necessary steps to move peace forward. The keys to security, peace and the welfare of future

generations were the dedication, courage, honesty, mutual respect and unwavering commitment to the implementation of the peace agreements, including those signed at Wye Plantation.

51. He urged the Israeli Government to desist from its unilateral actions and settlement-building policies, which sought to change the status quo in the occupied territories, and particularly the Holy City of Jerusalem. His delegation also demanded that the Israeli Government respect the deadlines and timetable agreed for the different stages of the peace process.

52. Jordan believed that the Palestinian leadership was fully entitled to proclaim a Palestinian State within the framework of the peace agreements and called upon the international community to recognize the Palestinian State when it was declared. The Israeli Government had primary responsibility for establishing a climate of respect, trust and peace between Palestinians and Israelis on the basis of equality, justice and respect for the rights of others.

53. Mr. ZAHRAN (Observer for Egypt) said that the right of peoples to self-determination was an integral part of international humanitarian law and a fundamental human right. As to the situation in occupied Palestine, at its previous session the Commission had adopted resolution 1998/4, in which it had called upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the occupied Palestinian territory, including East Jerusalem, and the other Arab territories which it had occupied since 1967 by military force. He deeply regretted that the peace process begun in Madrid in 1991 had reached a deadlock because of Israel's policy, particularly its settlement policy and the measures to cut off the occupied territories, which had an adverse effect on the economic, social and cultural rights of the Palestinian people. That policy had been regularly condemned by the United Nations and some specialized agencies, particularly ILO and WHO.

54. Accordingly, he called upon the Commission to continue its efforts to convince Israel to respect its commitments vis-à-vis the Palestinians, to comply with the Wye River Memorandum and cooperate with the Special Rapporteur on the situation of human rights in the occupied Palestinian territories with a view to opening up the way to a just and lasting peace in the Middle East.

55. Mr. SANTA CLARA GOMES (Observer for Portugal) said his country had always maintained that a solution to the problem of East Timor would be achieved only through the exercise of self-determination by the East Timorese. He welcomed the recognition by Indonesia that the people of East Timor must be consulted. Such consultation must take the form of a direct ballot both inside and outside East Timor. If the vote of the people of East Timor was to be fair and free, however, the prevailing conditions there must improve. The prevailing tension and violence, due largely to the activity of civilian militias armed by Indonesia and the worrying humanitarian situation posed a serious threat to a just settlement of the problem. For consultation to take place in a peaceful climate, a permanent United Nations presence must be established in the region immediately. The Office of the United Nations High Commissioner for Human Rights could, through its involvement, help to reduce tension and promote dialogue and reconciliation in East Timor.

56. Mr. PELEG (Observer for Israel) said that Israel supported the right of self-determination, since the creation of the State of Israel had itself been a restoration of the right of the Jewish people to self-determination. However, that right was not an absolute right; it must be weighed against other rights and could never justify acts of terrorism. It was a right that could take many forms; in the Middle East, the peace process sought to achieve the right of self-determination for all peoples of the region, including Palestinians.

57. In the 1978 Camp David Accords, Israel had recognized the right of the Palestinian people to determine its own future. That approach had found concrete expression in the Oslo Agreements, in which Israel and the Palestine Liberation Organization (PLO) had recognized their mutual rights. Under that process they had undertaken to settle all issues relating to permanent status through bilateral negotiations between the two sides. After decades of sterile resolutions adopted by international organizations, a few years of bilateral negotiations had resulted in 97 per cent of all Palestinians under the authority of the Palestinian Council, which they themselves had elected. Both sides must move the peace process forward to its conclusion, but any attempt to prejudge the settlement of issues relating to permanent status by means of unilateral acts, whether in the name of self-determination or other principles, would only endanger the peace process and in fact force Israel to take measures of its own in an attempt to restore the situation.

58. To save the peace process, the Commission should exercise responsibility and restraint and affirm that only bilateral negotiations were likely to lead to just and lasting solutions. Israel invited the Palestinians to return to the negotiating table and work together to find solutions.

59. Mr. MOUSSAEV (Observer for Azerbaijan) reiterated his country's unswerving commitment to the right of peoples to self-determination. However, that right could be misinterpreted, for example when it was used to justify territorial expansion under the pretext of looking after the interests of ethnic groups in other States, particularly in multi-ethnic States. In such cases, the use of force to realize the right to self-determination by one ethnic group deprived the majority of the population of its fundamental rights. In his commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Mr. Asbjorn Eide, the Expert of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had clearly stated that minority rights could not serve as a basis for claims for secession or dismemberment of a State.

60. Notwithstanding the resolutions of the United Nations Security Council and the decisions of the Organization for Security and Cooperation in Europe, the Council of Europe and other international organizations dealing with the armed conflict between Armenia and Azerbaijan, Armenia continued to affirm that the cause of the conflict was the struggle for self-determination of the Armenian community in the Nagorny Karabakh region of Azerbaijan. That misinterpretation of the right of peoples to self-determination as the right of an ethnic minority to secession threatened regional and international peace and security and the territorial integrity of sovereign States, and therefore could not be ignored by the international community. It should be recalled

that the right to self-determination was applicable to the population as a whole and was not a unilateral right to independence or secession.

61. Mr. RUSDACHIN (Transnational Radical Party), recalling the statement made by the High Commissioner for Human Rights, said that the international community as a whole - with some exceptions - currently realized that the escalating repression by the Belgrade regime in Kosovo Province and the excessive use of force against Albanians were the reason for the present tragic conflict. Yet the international community should recognize that its "tolerance" of the activities of the Belgrade regime and its hesitation in finding a political solution to the problem of the final status of Kosovo had contributed decisively to the worsening of that situation.

62. It was only when the number of civilian deaths reached the thousands, after nearly half a million people had had to flee their destroyed homes and after the entire world had witnessed the massacre at Račak, which had rightly been class as a crime against humanity in the reports of the independent experts and NGOs, that the international community had found the political will to intensify and concretize its efforts. In the report it had submitted to the International Tribunal for the Former Yugoslavia at the Hague, his organization had demonstrated the direct and indirect responsibility of top members of the Government and the President of the Federal Republic of Yugoslavia himself for those events. Immediate indictment of President Milosević was essential for the restoration of respect for human rights and the promotion of the rule of law and democracy in Serbia, Vojvodina, Montenegro and Kosovo.

63. The current mess in the Balkans showed that there was no longer any reason to fear the appearance of a Greater Albania. However, in considering what the final status of Kosovo would be, due attention should be paid to all interdependencies with that province, regardless of whether they were political, economic, social or cultural, international or regional. If all those factors and links were taken into account, the question of broad autonomy or independence for Kosovo should no longer be a taboo.

64. The first issue to be settled was that of respect for human rights and the elementary rules of democracy in the Federal Republic of Yugoslavia so that the rule of law could replace rule by the strongest and the right to life could again become the pre-eminent right.

65. Mr. NHIAL (Christian Solidarity International) said that, if the world was to be spared the current horrors in Bosnia, Kosovo, Burma and the Sudan, the international community must immediately begin to lay the foundations of a mechanism that would allow communities that were repressed by genocidal regimes to exercise their right to self-determination. The sovereignty of States was not a divine right that could be exercised without attention to human rights standards and principles as expressed in international instruments. The international community must not allow the principle of State sovereignty to serve as a licence to commit genocide and associated crimes against humanity, such as slavery.

66. His organization had been involved in human rights advocacy for 20 years. The list of individual and collective human rights abuses was

long: torture, displacement of populations, deportation to concentration camps, forced conversion to other religions, enslavement, particularly of women and children from black African communities, ethnic cleansing, persecution of Christians, and imprisonment of Muslims who upheld democratic ideas. Brutal genocidal regimes that committed crimes against humanity and violated all human rights no longer deserved to be considered governments worthy of the name.

67. His organization was greatly encouraged by the General Assembly's adoption of resolution 53/134, entitled "Universal realization of the right of peoples to self-determination". The key word of that resolution was "universal". While the international community was deeply concerned at present by the tragedy in the Balkans, particularly in Kosovo, that was no reason why it could not also pay attention to genocidal tragedies of still greater magnitude in Africa, including the martyrdom of the Sudanese people.

68. Mr. GARCIA PICCOLA (Pax Romana) drew attention to the work of the international conference of experts on the right to self-determination that had been organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) at Barcelona from 21 to 27 November 1998. Conference participants had concluded that the right to self-determination was firmly established in international law and that its peaceful implementation could contribute significantly to the prevention and resolution of conflicts, especially in cases where the interests of States were in opposition to those of peoples, including indigenous peoples and minorities. They had stressed that self-determination was achieved by a democratic process involving the full participation of the people concerned, including the holding of referendums where appropriate. Effective prevention of conflicts required immediate and committed action.

69. His organization wished to stress the relevance of those considerations during a time of globalization. Many innovative modes of promoting the right to self-determination had appeared and had not yet been sufficiently explored. In the circumstances, the capacity to prevent conflicts in the future would depend on the international community's ability and readiness not only to develop existing procedures but to devise new ones as well. In that connection, his organization believed it was important to empower the United Nations system to play its role fully in that area. He therefore recommended that the Commission should invite the Secretary-General to prepare a working paper on the right to self-determination which would contain a compilation and analysis of materials from different governmental, intergovernmental and non-governmental organizations on the topic, for submission to the Commission at its fifty-sixth session.

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION (agenda item 6) (E/CN.4/1999/12, 15 and Add.1, and 17; E/CN.4/1999/NGO/4-6 and 60)

70. Mr. [illegible] AMARASINGHE (Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance), introducing his annual report (E/CN.4/1999/15) and the addendum thereto, which dealt with his

mission to South Africa, said that the report must be read together with the report that had been submitted to the General Assembly at its fifty-third session (A/53/29).

71. In his general report, he emphasized the measures taken by Governments to meet mandated objectives, on manifestations of racism and racial discrimination that had been brought to his attention and on the follow-up to field visits as well as on visits he planned to make during the coming year. As a result of the cooperation established with a growing number of member States, including those that had invited him to make visits (United States of America, Brazil, Colombia, Germany, France, United Kingdom, Kuwait and South Africa, in chronological order), he had been able to obtain first-hand experience of the situation in those countries that he could not have obtained solely from studying documents.

72. Some countries had already implemented part of the recommendations he had made following those visits. That was the case in the United States of America, where President Clinton had in June 1997 launched his President's Initiative on Race, which was discussed briefly in paragraphs 132 to 135 of the report. He pointed out in particular that his recommendation for the reinstatement of affirmative action measures was supported by the statement by the President's Advisory Board on Race that that policy was still a necessary critical tool for overcoming the effects of past racial discrimination and eliminating disparities, particularly in the field of education, with a view to achieving the goal of a United America.

73. Attention should be drawn to the measures taken by the Government of Brazil to combat racial discrimination in employment and to the efforts made to protect the rights to land ownership of the Quilombos, who were originally fugitive slaves. He also hoped to be informed of progress in the delimitation of territory belonging to indigenous populations and the measures taken to deny access to those who would despoil that land.

74. He noted with satisfaction the committed efforts of the Government of the United Kingdom to attack racism within the police force, particularly in London and Manchester, pursuant to the recommendations he had made following his visit to that country.

75. He also welcomed the preparation by the Colombian Government of a national development plan for the Afro-Colombian population with the participation of the communities concerned, and he hoped to receive direct reports from the Government on the progress in implementing that plan.

76. The French Government continued to pay close attention to the implementation of his recommendations. There had been several judicial rulings in France against incitement to racial discrimination, denying the existence of the holocaust and racial discrimination. Positive measures had also been taken to promote the access of young immigrants to employment. He commended in particular the historic initiative taken by the French National Assembly on 1st February 1998, when it had adopted on first reading a bill that recognized trafficking and slavery as crimes against humanity.

77. It was regrettable that the German Bundestag had not passed the bill against racial discrimination which the Government had tabled, and he encouraged the German Government to continue its efforts in that regard.

78. In 1998, he had reported at length to the Commission on the positive changes in post-apartheid South African society and on the difficulties facing the Government in its reform efforts. The situation that he had observed during his mission to that country was described in detail in the addendum to his report (E/CN.4/199/15/Add.1).

79. The fundamental task of the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, currently in preparation, would be to consider ways of thwarting the resurgence of racist ideologies and discriminatory practices designed to exclude or eliminate individuals or groups simply because they belonged to a particular race or ethnic group. However, the World Conference should above all encourage States that had not yet done so to adopt constitutional and legislative measures to prevent incitement to racial hatred and discrimination in the areas of employment and access to public facilities and to services and, above all, to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families. He stood ready to participate in the work of the Preparatory Committee for the Conference. He also welcomed the initiative taken by the Director-General of UNESCO, who had launched a Programme towards a Culture of Peace and Non-Violence on 5 March 1999 as a prelude to the proclamation by the United Nations of the year 2000 as the Year of Culture, Peace and Non-Violence. Lastly, he expressed the hope that the joint efforts of Governments, United Nations bodies, representatives of civil society and NGOs in particular would contribute to the elimination of racism, racial discrimination and xenophobia in the world.

80. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that the statement made by the Minister for Foreign Affairs and Trade of South Korea was misleading. If there was a food problem in the Democratic People's Republic of Korea, it was because of the severe natural disasters which had occurred there for several consecutive years and the external blockade imposed on the country. South Korea was misusing that situation for political purposes and, rather than talking about humanitarian concerns, would do better to refrain from obstructing humanitarian assistance.

81. With regard to reciprocal exchanges of prisoners, it should be noted that long-term prisoners originally from the North were those that had been captured during the Korean War and had recently been released after having spent more than 30 or 40 years in prisons in the South. At the same time, there were no "abductees" in the North; there were some persons from the South who had come over to the North of their own free will during and after the Korean War. They had families there and no longer wished to return to the South. Consequently, all prisoners in the South must be unconditionally repatriated to the North.

82. As for the "reunion of separated families", the Government of the Democratic People's Republic of Korea had put forward a great many proposals

in that regard between 1971 and 1992 in order to facilitate contacts between families. But those efforts had been seriously challenged by the authorities of South Korea. Those authorities outwardly claimed that they were prepared to engage in dialogue, exchanges and cooperation with the North, while in fact calling that country an "anti-State organization" and its people "members of an anti-State organization"; they even criminalized contacts between citizens of South Korea and their compatriots in the north.

83. All those contradictory facts had their origin in the National Security Law. As long as it remained in force, it would constitute an obstacle to reconciliation and unity between the North and South, and any attempt at dialogue or cooperation, including the reunification of separated families, would be hypocritical.

84. Mr. IBRAHIM (Sudan) said he wished to inform the representative of Christian Solidarity International, who had claimed in his statement the right to self-determination for the people of southern Sudan, that that right had already been granted to them under a peace agreement concluded in April 1997 between the Sudanese Government and seven of the eight warring factions in that region. The Government was pursuing its negotiations with the eighth faction so that it might agree to end the civil war which had caused so many victims and so much destruction in southern Sudan. It should be noted that Sudan had been divided in 1994 into 26 States of which 10 were located in the South. Each of those States enjoyed some degree of autonomy, particularly in the legislative matters. The seven factions that had signed the peace agreement controlled 75 per cent of the territory of the 10 southern States, and if the population of those States voted for separation during the referendum to be held in three years, the Sudanese Government would respect its choice, since peace was its primary consideration.

85. In conclusion, he expressed the hope that the international community would exert pressure on the eighth faction that was still at war to agree at last to sign the peace agreement during the negotiations to be held at Nairobi on 20 April 1999 under the auspices of the countries of the Horn of Africa and with the assistance of their friends, the European Union and the United States of America.

86. Mr. FERNANDEZ PALACIOS (Cuba), speaking on a point of order, said he recognized the need to limit the time of speakers' statements in the Commission in order to increase the efficiency of its work. Nevertheless, that rule should be applied with maximum flexibility, particularly where dignitaries were concerned. In fact, the practice had always been to allow them to speak freely. From the outset of the present session, however, a great many of them, including the President of the State Council of Cuba, had been interrupted with scant ceremony. Accordingly, his delegation requested that its concern should be duly taken into account in the interest of the future work of the Commission.

87. The CHAIRPERSON said that she understood the concerns of the representative of Cuba, but recalled that her role was to apply the established rules impartially. She therefore asked him not to complicate her task.

88. Mr. FERNANDEZ PALACIOS (Cuba) emphasized that all participants must be allowed to be heard so that they could understand each other. He appealed once again to the Chairperson to apply the rules concerning time-limits on statements with greater flexibility.

89. The CHAIRPERSON said that it was not for her to change the rules established for the present session; they could be changed at the next session.

The meeting rose at 1.20 p.m.